

Manchester NH

BOSTON AND MAINE CORPORATION, DEBTOR  
ROBERT W. MESERVE AND BENJAMIN H. LACY, TRUSTEES

CONTRACT BUREAU TRANSMITTAL MEMO

DATE AUG 28 1978

FROM: L. R. Mattice  
Director-Contract Bureau

TO: Messrs. S. B. Culliford  
P. W. Carr  
J. J. Nee  
D. J. Hughes  
✓ Boston Div. Supt.-G. F. Gallagher  
~~N. E. Div. Supt. W. V. Furey~~  
Agent-*Manchester, N. H.*

Attached for your information is copy of numbered document checked below.

CONTRACT # **60263**

DEED #

CORRESPONDENCE RE CONTRACT #

OPENING NOTICE SENT

CLOSING NOTICE SENT

2014  
H-6

## CRYSTAL LAUNDRY AND DRY CLEANERS, INC.

Petitioner to have the Boston and Maine Corporation construct a private grade crossing over its Valley Street tracks in Manchester, New Hampshire.

..00..

Appearances: for petitioner Crystal Laundry and Dry Cleaners, Inc., Robert F. McNeil; for the Boston and Maine Corporation Trustees, John E. O'Keefe.

..00..

## REPORT

By petition filed March 13, 1973, the Crystal Laundry and Dry Cleaners, Inc. of Manchester seeks a private crossing over the Valley Street spur track of the Boston and Maine Corporation in the City of Manchester. Hearing thereon was held at Concord on May 22, 1973.

Petitioner is the owner of land in the City of Manchester, bounded on the north by Valley Street, on the west by Union Street, on the south by Merrill Street and on the east by the land of the Agway Corporation. General dimensions of this are 200 feet east and west and 150 feet north and south.

Access to the property consists of a 36 foot wide driveway from Union Street beginning at a point 30 feet from its southerly boundary, two 25 foot wide driveways from Merrill Street, described as a narrow side street, the westerly one commencing approximately 35 feet from the westerly bound and the second approximately 25 feet from the easterly bound.

By this petition additional access is desired consisting of a 36 foot wide driveway from Valley Street commencing 85 feet east of its westerly bound.

Between the northerly bound of the lot and Valley Street is located a spur track of the Boston and Maine Corporation which is necessary to cross to obtain access to and from Valley Street. The Boston and Maine Corporation

has refused a private crossing on the basis that access is already available to the property and there is no legal requirement for a grade crossing.

A proposed development is submitted consisting of a food store, approximately 40 by 60 feet and three rental retail stores, each approximately 13 feet wide and 60 feet in length. The building containing these facilities would be placed adjacent to the southerly boundary of the lot between the 25 foot access driveways from Merrill Street and would include a parking area for ten (10) cars along its westerly edge with a 5 foot concrete walkway between the parking area and the store entrances. In the northwest corner of the lot, a service station would be installed with three 8,000 gallon gasoline storage tanks placed in the ground between the parking lots above described and the northerly boundary of the lot. The 36 foot wide access which is desired from the Valley Street entrance would be located just east of the location of these tanks and it is proposed that servicing from truck trailers to these tanks would be provided through the use of this entrance and the grade crossing of the railroad track.

Near the easterly bound of the lot there would be thirteen (13) parking areas and it is proposed that there would be five (5) such spaces on the northerly side of the store building.

It is the position of the petitioner that the only feasible method of entering and departing from that lot requires the proposed access from Valley Street. Without this, backing and turning will be required by the trailer type vehicles that will be servicing the area, not only for the gasoline tanks but other types of tractor trailer transporters will be delivering supplies to the area. Without such a facility, it will be impossible to develop this lot for the purpose intended.

73-25

The Boston and Maine Corporation is strenuously opposed to the creation of an additional grade crossing on its Valley Street spur track. It is the position of the trustees of this corporation that the statute does not require a private crossing unless the property is divided or separated from a public highway by a railroad track. In this case with access already provided from Union Street and from Merrill Street, it claims no responsibility for providing an additional access, particularly when a grade crossing is required to accomplish this.

The proposed development area has been approved by the Manchester Planning Board on the basis that only one access should be provided to and from Valley Street.

It is apparent from the testimony submitted in this proceeding that an opportunity is available to develop a relatively small lot for industrial purposes. Testimony was introduced to indicate that an employee of the railroad industrial division now retired recommended in 1970 the granting of the crossing substantially as requested herein, but the matter was not progressed further at that time.

The Valley Street spur travels a considerable distance along Valley Street from a switching connection with the Portsmouth Branch at its easterly terminal and is of a descending grade throughout its length. Other commercial property is located on the south side of the spur and it is understood that requests have, in the past, been made to the railroad corporation for providing crossings, all of which have been refused. None of these have previously been brought to the attention of this Commission as in the instant case.

The record is silent as to the number of train movements made on this spur, but it is reasonable to assume that it is available for use whenever a demand exists for the service. The fact that the number of train move-

ments have not been submitted may be due to very infrequent use in which case it would seem unfair to deprive the improvement of land usage simply because a spur track exists adjacent to the property. Under the circumstances, however, it does not appear within reason to require the railroad to provide such a crossing at its own expense.

Upon consideration of all the facts, the Commission is of the opinion that the Boston and Maine Corporation should provide a crossing, but that the cost of the same and the installation of approaches thereto shall be borne by the petitioner. Our order will issue accordingly.

Alexander J. Kalinski  
Chairman

Francis J. Riordan \_\_\_\_\_, Commissioner

Malcolm J. Stevenson \_\_\_\_\_, Commissioner

Concurring: \_\_\_\_\_

August 1, 1972

## CRYSTAL LAUNDRY AND DRY CLEANERS, INC.

..00..

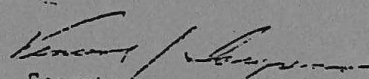
ORDER NO. 13,253

Upon consideration of the foregoing report, which is made a part hereof; it is

ORDERED, that the Boston and Maine Corporation shall construct a private crossing over its Valley Street spur track, adjacent to the Crystal Laundry and Dry Cleaners, Inc. in accordance with plans on file with the office of this Commission, marked DT 73-23; and it is

FURTHER ORDERED, that the cost of the construction of the crossing, together with its approaches, shall be borne by the said Crystal Laundry and Dry Cleaners, Inc.

By order of the Public Utilities Commission of New Hampshire this first day of August 1976.

  
Secretary

AUG 5 1976

COPY OF CONTRACT No. 60263

RECEIVED  
U.S. AIR FORCE  
SUPPLY CENTER  
DIXON

AUG 29 1978