
THE LAW OFFICES OF BELLO & MORTON, LLC

184 Main Street Wareham, Massachusetts 02571 · 508-295-2522

October 5, 2022
Wareham Zoning Board of Appeals
54 Maron Road
Wareham, MA 02571

Re: Variance Application for Clear Channel Outdoor for 14 X 48 Electronic Message Board Located At 3077 Cranberry Highway, Wareham, MA 02571

Dear Members of the Board of Appeals:

Please find enclosed the following information and exhibits:

1. Petitioner and Recorded Owner:

Softouch Realty of Wareham, Inc (f/k/a Crystal Clean Realty of Wareham, Inc.)
P.O. Box 1212
Westborough, MA 01581

2. Current Deed

Plymouth County Registry of Deeds Book 8658, Page 198 (Deed) and Book 9594, Page 170 -Copies attached as Exhibit 1.

3. Building Inspector's Denial Letter:

Denial Letter attached here as Exhibit 2 from the Building Commissioner referencing Appeal to Zoning Board of Appeal is necessary.

4. Certified Abutters List:

Copy Attached as Exhibit 3.

5. Renderings of the Board and Site Plan :

Attached as Exhibit 4 is a copy of the Relevant Plans. Please note our Parcel is in the CS district.

7. Letter of Support

Dear Chairman and Board Members,

I represent Clear Channel Outdoor who is the company who controls the billboard located near the Softouch Carwash located at 3077 Cranberry Highway. We are seeking relief from your Board in regard to the denial from the Wareham Commissioners Letter dated September 8, 2022.

Background:

The site was granted a previous Variance recorded with the Registry of Deeds August 24, 2015 for the construction of the electronic billboard on one side but static billboard side on the other. At that time, there were only plans for a static board on the side other side. Since the change in technology, Clear Channel is now pursuing the ability to have the digitization on the other side as well. In the prior hearing, Board discussed certain issues regarding traffic and driver distraction etc.

The Law:

We are seeking a Variance from the following as noted in the Building Commissioners letter:

- Article 11 Signs, 1115 Prohibited Signs, Section 1115.1
- Article 11 Signs, 1115 Prohibited Signs, Section 1115.4
- Article 11 Signs, 1117 Placement, Section 1117.4
- Article 11 Signs, 1117 Placement, Section 1117.6
- Article 11 Signs, 1115 Freestanding, Section 1126.1
- Article 11 Signs, 1115 Placement, Section 1117.4
- Article 11 Signs, 1115 Illumination, Section 1127.2

The Applicant is seeking relief from the Board of Appeals under the specific provisions below:

1133.2 Variances. The Zoning Board of Appeals may vary the provisions of this bylaw in specific cases where

- 1. Variance is necessary to comply with other applicable laws,*
- 2. The Zoning Board of Appeals determines that the circumstances involved with a particular sign were not contemplated by the bylaw; or*
- 3. Unnecessary hardship will result to the owner of the sign, provided that the requested relief may be granted without substantially derogating from the intent and purpose of this*

bylaw.

Standard as Applied to our case:

1. The Applicant is seeking relief due to several factors which would create a hardship if not allowed. The applicant is able to hook up the digitalization without disturbing any of the existing Variance and conditions on the structure. The billboard structure is already built and approved. We argue that the addition of the electronic sign will be of value to the Town. As in the prior approved Variance, the Town will receive a mitigation payment for the additional digitization of the billboard. There also will be the opportunity for the Town to showcase community events in front of the tens of thousands of people who drive by the billboard daily.
2. The addition of the illumination on the other side of the billboard will not create substantial harm to the public. The addition will create uniformity and add value to Cranberry Highway. Especially with the addition of the median on Cranberry Highway the chances of motorist distraction have reduced.
3. Most of the billboards around the USA are converting to digitalization for purposes of convenience, aesthetics, and improvement visually for sponsors: this is a logical next step for the Town. The hardship to the petitioner is clear. If this appeal is denied, the company would be reduced to accept the antiquated static form which is being replaced throughout the country and state with the current market of digitalization.
4. All things considered allowing this Variance would not be detrimental to the neighborhood and certainly would not derogate from the intent of the Zoning By Law.

We respectfully ask that the Board consider the factors above and specifically the advantage to the Town with added revenue, as well as conformity and aesthetically pleasing addition of the additional electronic message board.

Respectfully submitted,


JULIAN A. MORTON, ESQ.

508-295-2522

TOWN OF WAREHAM
ZONING BOARD OF APPEALS

APPLICATION FOR A PUBLIC HEARING FOR A VARIANCE/SPECIAL PERMIT

Certain uses are allowed in several zoning districts only by means of a Variance and/or Special Permit from the Zoning Board of Appeals. Those uses are indicated in the Wareham Zoning By-Laws. To apply for a Variance/Special Permit from the Zoning Board of Appeals, please do the following:

- o Complete this form.
- o Complete information packets. (Directions attached)
- o Submit application form and packet to Town Clerk for signature.
- o Submit application form and packet to Town Collector for signature.
- o Submit completed form, packets, and appropriate fees** to the Zoning Board of Appeals secretary.

**Permits may be issued only after a public hearing. There is a filing fee of \$300.00 per lot, per application for all non-conforming residential lots, whether built upon or not. There is a filing fee of \$750.00 per lot, per application for all commercial applications. In the case of a multi-family development, the fee is \$300.00 plus an additional \$50.00 for every unit over two (2). Please make check payable to the Town of Wareham.

**A check to cover two (2) legal advertisements for the public hearing should be made payable to Wareham Week in the amount of \$80.00.

**The applicant will also be responsible for the costs of sending out abutter notifications by Certified Mail. The cost is \$6.11 per certified letter to each abutter. Please see Zoning Board secretary for cost of mailings. Please make check payable to the Town of Wareham.

I hereby apply for a Variance/Special Permit for a use to be made of the following described place:

STREET & NUMBER: 3077 Cranberry Hwy LOT: 10 MAP: 1001A + 1001B
ZONING DISTRICT: CS
USE REQUESTED: Sign Variance
OWNER OF LAND & BUILDING: Softouch Realty of Wareham TEL.# _____
ADDRESS OF OWNER: P.O. Box 1212 Westborough, MA 01581
PERSON(S) WHO WILL UTILIZE PERMIT: Clear Channel Outdoor
ADDRESS: 89 Maple Street, Wareham, MA 02180
DATE: 10/6/2012 SIGNATURE: _____
This application was received on the date stamped here:

Town Clerk: _____ Date: _____
Tax Collector: _____ Date: _____
Planning/Zoning Dept.: _____ Date: _____
Application fee paid: _____ Check #: _____ Receipt: _____
Advertising fee paid: _____ Check #: _____ Receipt: _____
Abutters fee paid: _____ Check #: _____ Receipt: _____

atty for Clear Channel Outdoor

TOWN OF WAREHAM

APPLICANT/CONTRACTOR/REPRESENTATIVE INFORMATION SHEET

Check One: Variance Special Permit Site Plan Appeal

Date stamped in: _____ Date decision is due _____

Applicant's Name: Clear Channel Outdoor c/o

Applicant's Address: Attorney Julian Mataran
97 Maple Street
Stoneham,
MA
02180

Telephone Number: 508-295-2522

Cell Phone Number: _____

Email Address: jam@mataranlawllc.com

Address of Property/Project: 3077 Cranberry Hwy, Wareham,

Landowner's Name: Softouch Realty of Wareham, MA

Owner's Address: P.O. Box 1212 Westborough, MA 01581

Telephone Number: _____

Contact Person: Julian Mataran Telephone Number: 508-295-2522

Map 10 Lot 1001A + 1001B Zone CS district.

Date Approved _____ Date Denied _____

Comments: _____

EXHIBIT 1

13923
7/20/88

BOOK 8658 PAGE 198

MASSACHUSETTS QUITCLAIM DEED (CORPORATION) 864

487

Cranberry Realty and Mortgage Corporation, being

a corporation duly established under the laws of the Commonwealth of Massachusetts and having its usual place of business at Wareham, Plymouth County, Massachusetts, in consideration paid of Two Hundred Thousand (200,000.00) Dollars paid grants to Crystal Clean Realty of Wareham, Inc.

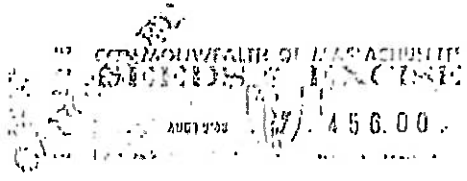
of 39 Green Street, Milford, Massachusetts with quitclaim returns

the land in Wareham, Plymouth County, Massachusetts described as:

Parcel B on a plan entitled "Plan of Land showing "Pal."A" to be conveyed to Charles Nickolaow & Harry Nickolaow in Wareham, Mass., scale 1" = 40', July 26, 1983 drawn by Charles W. Ehmann, Jr., R.L.S., Newell B. Snow Inc., 207 Main Street, Buzzards Bay, Mass." which plan is recorded in Plymouth County Registry of Deeds, Plan Book 25, Page 210.

Being a portion of the premises described in a deed from Auburn Finance Corp. to Cranberry Realty and Mortgage Corp., which deed is dated November 1, 1968, and recorded at the Plymouth County Registry of Deeds in Book 3482, Page 195.

Address of Premises: A portion of Town of Wareham Assessor's Lot 1001, Sheet 10 Cranberry Highway, Wareham, Plymouth County, Massachusetts



In witness whereof, the said Cranberry Realty and Mortgage Corp.

has caused its corporate seal to be hereto affixed and these presents to be signed, acknowledged and delivered in its name and behalf by Robert S. Fougere, Sr., its President and M.C. Paulette Fougere its Treasurer hereto duly authorized, this 8th

day of August in the year one thousand nine hundred and eighty-eight

Signed and sealed in presence of

William F. Crowley

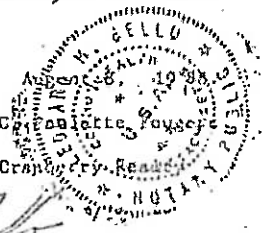
Robert S. Fougere, Sr.
by *M.C. Paulette Fougere*

The Commonwealth of Massachusetts

Plymouth ss.

Then personally appeared the above named Robert S. Fougere and M.C. Paulette Fougere and acknowledged the foregoing instrument to be the free act and deed of the Cranberry Realty and Mortgage Corp. before me,

Leonard N. Bello
Leonard N. Bello, Notary Public - State of Massachusetts



REC'D AUG 19 1988 AT 1:57 PM AND RECORDED My commission expires December 18 1992

n
33
177

BOOK 9594 PAGE 170

Pa 10-71

QUITCLAIM DEED

We, CHARLES J. NICKOLAOW and HARRY NICKOLAOW, both of Wareham, Massachusetts and having a mailing address of Post Office Box 329, Buzzards Bay, Massachusetts 02532 ("Grantor"), for consideration paid and in full consideration of ONE HUNDRED TWENTY THOUSAND AND 00/100 (\$120,000.00) DOLLARS, grant to SOFT TOUCH REALTY OF WAREHAM, INC., a Massachusetts corporation of Box 1212, Westborough, Ma. 01581, ("Grantee"), with QUITCLAIM COVENANTS, the land with the buildings thereon situated in Wareham, Plymouth County, Massachusetts, shown as the westerly portion of Lot 1001 on that certain "Plan of Land Prepared For Softouch Realty of Wareham Cranberry Highway, Mass." dated August 11, 1989 and prepared by Robert A. Braman R.L.S.N. 8942 of Braman Engineering Company Ltd., which plan is to be recorded herewith, and being that area of land bounded and described as follows:

- NORTHEASTERLY by Cranberry Highway (Routes 6 and 28) 1949 Layout, 110.00 feet, more or less, as shown on said plan;
- SOUTHEASTERLY by land of grantee along the Old Property Line as designated "Old P/L", 103.00 feet, more or less, as shown on said plan;
- SOUTHWESTERLY by land now or formerly of the Commonwealth of Massachusetts, 110.14 feet, more or less, as shown on said plan; and
- NORTHWESTERLY by land retained by Grantor and shown as Lot 1001A on said plan, 104.58 feet, more or less.

Containing 11,509 square feet of land, more or less (the "Land").

WITH THE EXPRESS RESERVATION in Grantor of a perpetual easement over the "Easement Area" (as hereinafter described) for use as a parking area servicing adjacent land of Grantor ("Grantor's Land"). The easement area granted hereby shall consist of a ten (10) foot wide strip of land located along the westerly boundary of the land conveyed hereby and as more particularly described on Exhibit "A" attached hereto and by reference made a part hereof (the "Easement Area"). In connection with the use and enjoyment of the Easement Area, Grantor shall be entitled to install, construct, reconstruct and maintain a parking lot with appropriate paving, lighting and drainage improvements over, under and across the Easement Area. In the event either Grantor or Grantee elects to perform any construction, maintenance, repair or replacement

of improvements within the Easement Area, such construction, maintenance, repair or replacement shall be done at such party's sole cost and expense and shall be done in a good and workmanlike manner, and in such a manner as to minimize disruption of existing vegetation, paving and terrain in the Easement Area. Upon completion of any such construction, maintenance, repair or replacement, the Easement Area shall be left in good and clear condition, with all debris removed therefrom, with trenches and cuts properly filled and with all improvements on the Land which were disturbed by such activities properly restored. Grantee, its successors and assigns, hereby covenant and agree that they will not install any improvements or permit any activity within the Easement Area which would prohibit or hinder the use of the Easement Area for the purposes herein reserved. The easement granted hereby shall be an appurtenance to the Grantor's Land and shall run with the Land and be binding upon and inure to the benefit of the owners of Grantor's Land and Grantee's Land and their respective heirs, lessees, licensees, invitees, successors and assigns, as the case may be, and those claiming by, through or under any of them.

AND SUBJECT TO the restrictions that no owner, tenant or other occupant of any portion of the Land conveyed shall use or conduct any activity on the Land related to (i) the sale or preparation of food and/or beverages; (ii) the sale of liquor, wine, beer or other malt beverages; or (iii) the operation in any manner whatsoever of a restaurant, irrespective of whether such sale be directed at on-premises or off-premises consumption of food and/or beverages, provided, however, this restriction shall not prohibit ancillary sales of vending-machine food and beverage products on the Land. The foregoing restrictions are covenants running with the Land conveyed and shall bind all parties and persons claiming under them for a period of thirty (30) years from the date hereof. These covenants may be extended for such successive periods of time as provided by law. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect. The restrictions set forth herein shall inure to the benefit of Grantor and to Charlie's Place, Inc. and any lands now owned or hereafter acquired by Grantor which are contiguous to Grantor's Land, their respective heirs, assigns, and successors-in-title.

The above described premises are conveyed subject to and together with the benefit of all other rights, rights of way, easements, appurtenances, reservations and restrictions of record, if there be any now in force and applicable.

For Grantor's title reference, see deed of Cranberry Realty & Mortgage Corp, dated June 18, 1985 and recorded with Plymouth County Registry of Deeds in Book 6154, Page 300 and Plan of Land dated June 26, 1988, recorded in Plan Book 25, Page 210, aforesaid records.

LOCUS: 3077 Cranberry Highway, Wareham, Massachusetts

WITNESS our hands and seals as of this 3rd day of February, 1990.

MAILED
DEEDS REG 18
PLYMOUTH
02/05/90
TAX 547.20
DUEX 547.20
1131A08 1159
EXCISE TAX

Charles J. Nickolaow
CHARLES J. NICKOLAOW
Harry Nickolaow
HARRY NICKOLAOW

COMMONWEALTH OF MASSACHUSETTS

Plymouth, ss. 2/3, 1990

Then personally appeared the above named CHARLES J. NICKOLAOW and acknowledged the foregoing instrument to be his free act and deed, before me,

Donald H. Angus
Donald H. Angus
NOTARY PUBLIC
My commission expires:

COMMONWEALTH OF MASSACHUSETTS

Plymouth, ss. 2/3, 1990

Then personally appeared the above named HARRY NICKOLAOW and acknowledged the foregoing instrument to be his free act and deed, before me,

Donald H. Angus
Donald H. Angus
NOTARY PUBLIC
My commission expires:
10/8/93

NICKOL.DED

EXHIBIT "A"

EASEMENT DESCRIPTION

Beginning at a point on the southerly side of Cranberry Highway, Routes 6 and 28 (1949 layout), said point being at the Northwesterly corner of the land of Grantor shown as Lot 1001 on that certain "Plan of Land Prepared For Softouch Realty of Wareham dated August 11, 1989" by Robert A. Braman R.L.S.W. 8942 of Braman Engineering Company Ltd., to be recorded herewith with the Plymouth County Registry of Deeds, and from said point running:

- SOUTHEASTERLY** along said southerly side of Cranberry Highway, ten (10) feet; thence turning and running
- SOUTHWESTERLY** along a line parallel to the westerly boundary line of said Lot 1001, one hundred four and 53/100 (104.53) feet; thence turning and running
- NORTHWESTERLY** along land now or formerly of the Commonwealth of Massachusetts, ten (10) feet; thence turning and running
- NORTHEASTERLY** along the westerly boundary of said Lot 1001, one hundred four and 53/100 (104.53) feet, to the point of beginning.

EASEXBA.REO

REC'D FEB 5 1990 AT 12 1 2 PM AND RECORDED

EXHIBIT 2



TOWN of WAREHAM

Massachusetts

BUILDING DEPARTMENT

Paul Turner
Director of Inspectional Services

September 8, 2022

Mr. Michael Maurello
89 Maple Street
Stoneham, MA 02180

RE: 3077 Cranberry Highway/ Map #10, Lots 1001A & 1001B

I have reviewed your application to add one new digital billboard face to an existing two sided billboard at 3077 Cranberry Highway, Wareham, MA.

The sign at present has one side digitized and the other side vinyl. The sign is not permitted by right in the Strip Commercial zoning district, and must be denied at this time. Therefore, a Variance must be secured in order to proceed with your request.

Your application is being denied under the following sections of the Wareham Zoning By-Law:

- **Article 11: SIGNS, 1115 Prohibited Signs, Section 1115.1**
- **Article 11: SIGNS, 1115 Prohibited Signs, Section 1115.4**


- **Article 11: SIGNS, 1117 Placement, Section 1117.4**
- **Article 11: SIGNS, 1117 Placement, Section 1117.6**

- **Article 11: SIGNS, 1115 Freestanding, Section 1126.1**

- **Article 11: SIGNS, 1127 Illumination, Section 1127.2**

The subject dwelling is located in CS Zoning district.

Respectfully,

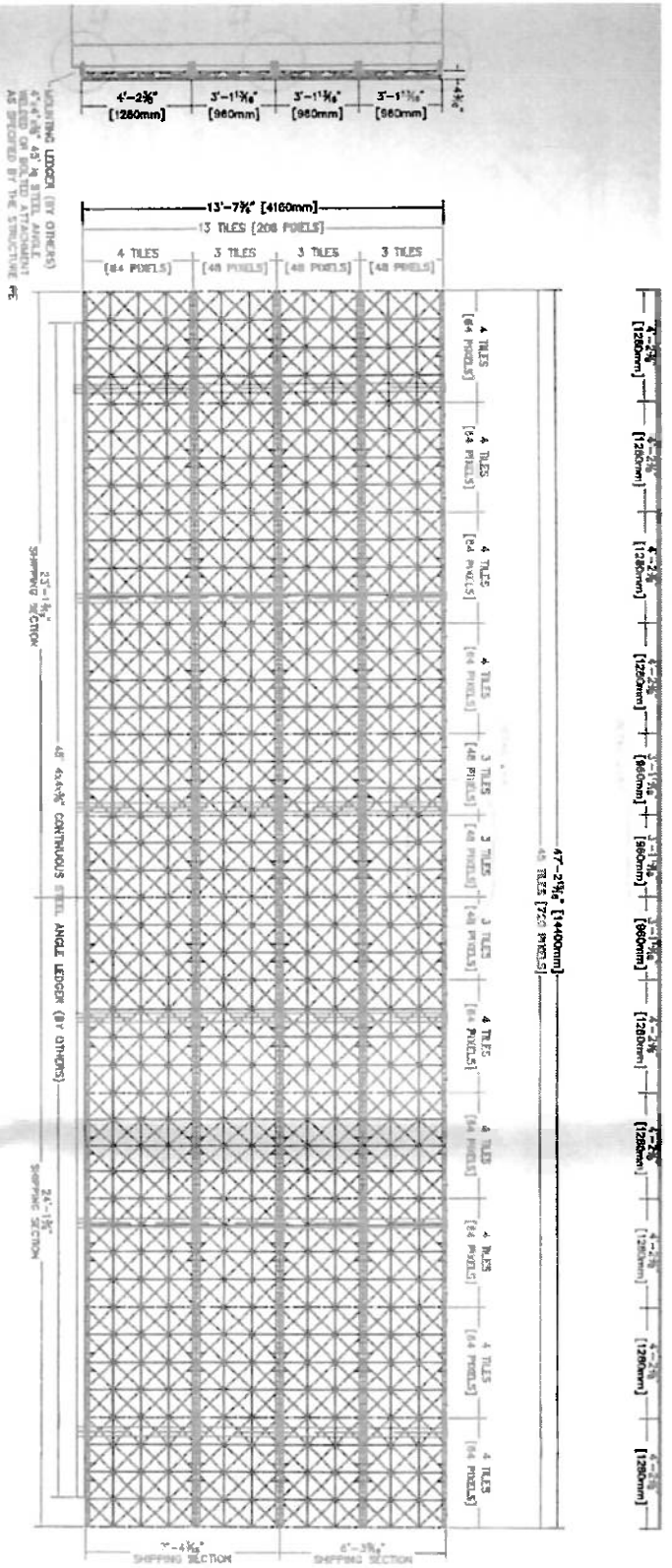

Paul Turner
Building Commissioner
Zoning Enforcement Officer

It is the owners' responsibility to check with other departments, i.e. Health, and conservation, etc. to ensure full compliance.

In accordance with the provisions of MGL chapter 40A §§ 15, you may apply to the Zoning Board of Appeals for the above noted relief within thirty (30) days of receipt of this letter.

EXHIBIT 3

EXHIBIT 4



- PRODUCTION NOTES:
- 1) CABINET POWER PRE-WIRED BY COLUMN
 - 2) TRIM COLOR - AS REQ'D
 - 3) USE $\frac{3}{8}$ "-13 GRADE 5 SERIATED FLANGE BOLTS AND NUTS UNLESS OTHERWISE NOTED
 - 4) ALL FABRICATED ALUMINUM AND STEEL PARTS TO BE FINISHED SHINY BLACK.

APPROXIMATE SIGN WEIGHT WITHOUT TRIM

ALUMINUM STRUT AND BRACKETS:	1,238#
ELECT SYSTEM:	1,500#
TILE LED MODULES:	5,271#
TRIM - 3" ANGLE:	0#
TOTAL:	8,659#

SEE B-2723 FOR POWER RISER AND DATA LAYOUT

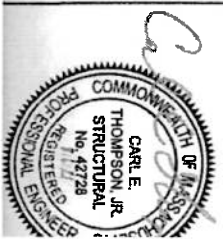
JOB# 76-2024 / PRL-2021-1159
 CLEAR CHANNEL DIGITAL BILLBOARD 37"V-2
 LOCATION: 478 Mainhatch Street, Methuen, MA 01844

THIS SIGN IS INTENDED TO BE INSTALLED IN ACCORDANCE WITH THE REQUIREMENTS OF ARTICLE 600 OF THE NATIONAL ELECTRICAL CODE AND/OR OTHER APPLICABLE LOCAL CODE. THESE RULES ARE IN ACCORDANCE WITH THE NATIONAL ELECTRICAL CODE.

DRAWING INDEX

- Sheet 1: L.E.D. Panel Layout Sheet
- Sheet 2: Upright Connection Details Sheet

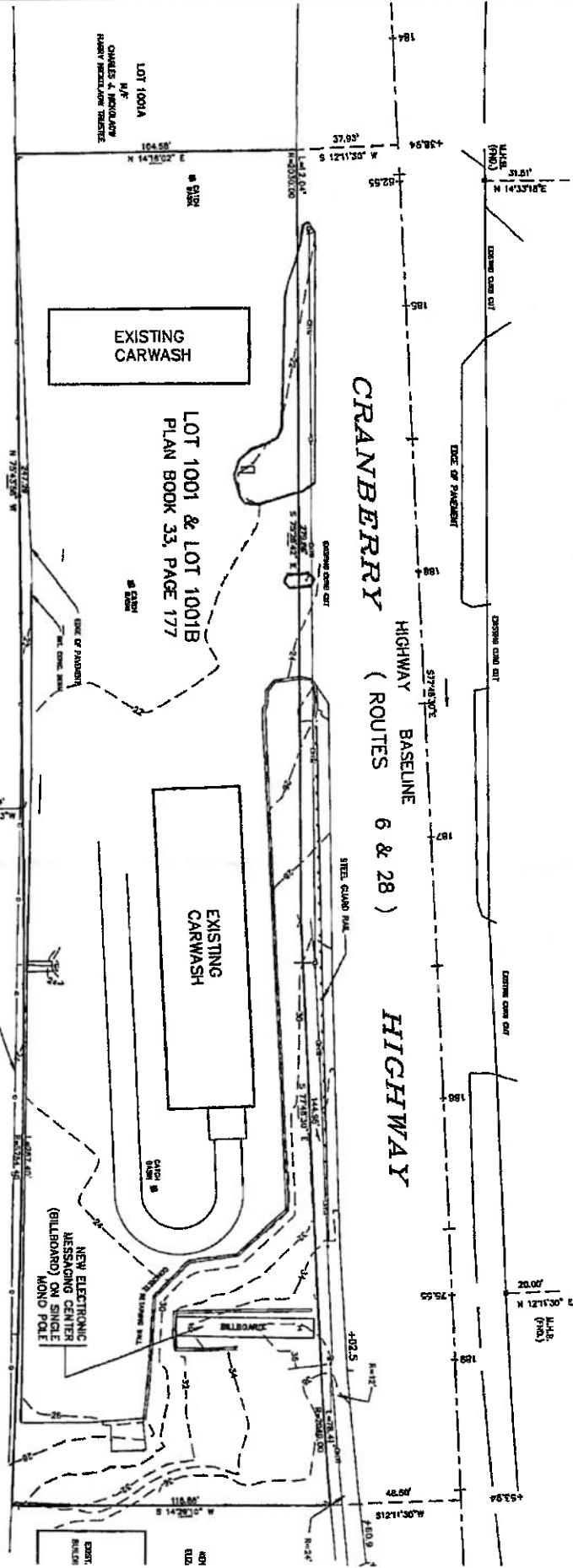
1. High strength bolts for connections shall be ASTM A-325, unless otherwise specified.
2. Aluminum welding shall comply with AWS D1.2-Current (All welding to be done by welder certified for specified weld type).
3. Steel welding shall comply with AWS D1.1-Current Edition, ER70XX (All welding to be done by welder certified for specified weld type).
4. Design Wind Speed V_{100} = 110 MPH Equivalent Wind Pressure P_{100} = 12.4 psf above the ground (3 Sec. VI Exposure C) Risk Category II $W = 1.0$ $Q = 0.4$
5. Seismic Design Criteria: Risk Category II, Site Class D $S_s = 0.250$ $S_p = 0.107$ $S_{DS} = 0.272$ (Wind Load Govern)
6. Contractor shall verify all dimensions and conditions in before erection and notify the Engineer of any discrepancies.
7. Steel Construction (AISC) (Current Edition)
8. Aluminum Association Aluminum Design Manual (2011)



MERIDIAN OF 1849
STATE HIGHWAY LAYOUT

N/P COMMONWEALTH OF MASSACHUSETTS

LOT 1021



NOTE: THIS PLAN IS THE RESULT OF A FIELD SURVEY AND REPRESENTS EXISTING CONDITIONS ON NOVEMBER 2, 2000.

