



BOARD OF APPEALS
TOWN OF FOXBOROUGH
40 SOUTH STREET
MASSACHUSETTS
02035

APPLICATION FOR BOARD OF APPEALS HEARING

Name of Applicant: J. Cook Realty, LLC Tel # % JEFF LOVELY, ESQ. 508 698 3000
Mailing Address: P.O. 510 FOXBORO MA 02035 Email: lovely@law3000@gmail.com
Location of Property Subject of the Hearing: 24 EAST BECKETT ROAD
Assessors Map #: 108 Parcel #: 001/002 Zoning District: LI
Is the property located in any zoning overlay district? No Yes If yes, please identify overlay district WRPD
Owner of Subject Property (if different than applicant): _____
Address of Owner (if different than applicant's address): _____
Were previous decisions rendered on the subject property?: No Yes If yes, please Provide copy of decision(s). attached

***NATURE OF APPLICATION (complete appropriate hearing request):**

1. Request for a **SPECIAL PERMIT** under Section _____ of the Zoning By-Laws to allow _____

2. Request for a **VARIANCE** from Section _____ of the Zoning By-Laws to allow _____

3. An **ADMINISTRATIVE APPEAL** in accordance with Section 10.2.2 of the Zoning By-Laws (explain): APPEAL OF DETERMINATION DATED FEB 22, 2023
(attached)
4. **OTHER** (i.e. Comprehensive Permit, Finding or Sign Bylaw - Chapter 213 Signs)
Explain: _____

*If necessary, attach additional description page(s).

I, [Signature] as applicant, hereby request a hearing before the Foxborough Zoning Board of Appeals as referenced in the above application.

Applicant's Signature: [Signature] Date: 3/16/23

*If applicant is other than owner of subject property, owner must sign authorization below.

I, JEFFREY COOK as owner of subject property, hereby authorize the applicant, JEFFREY M. LOVELY, to act on matters before the Foxborough Zoning Board of Appeals as referenced in the above application.

Subject Property Owner's Signature: [Signature] Date: 3/15/23

Official Use Only

Tax Collector's Release

The above referenced applicant is applying for a permit from the Zoning Board of Appeals and is in good standing with respect to any taxes, fees, assessments, betterments or other municipal charges as recorded with the Treasurer's Office.

Tax Collector or Agent's Signature: [Signature] Date: 3/16/23

Town Clerk Receipt

The above referenced application has been received and recorded with the Town Clerk.

Town Clerk or Agent's Signature: _____ Date: _____

INSTRUCTIONS FOR APPLICATION FILING: INCLUDE EIGHT (8) COPIES EACH.

1. Completed application with all signatures affixed. ✓
2. Copy of assessor's map showing parcel subject to hearing. ✓
3. Plot Plan, certified by land surveyor or civil engineer showing proposed work (Mortgage survey plans will not be accepted). N/A
4. Construction plans showing building elevations with dimensions (if applicable). N/A
5. If an administrative appeal, include denial letter or zoning determination from the Building Commissioner or other Town Official (if applicable). ✓
6. Abutter's List (within 300 feet of subject property), certified by the Town Assessor. ✓
7. Any additional documentation relevant to the hearing.
8. Appropriate fees (See Fee Schedule) ✓

Jeffrey M. Lovely, Esq.
Counselor At Law
6 Railroad Ave.
Foxboro MA 02035

508 698 3000

lovelylaw3000@gmail.com Fax 508 543 0798

March 15, 2023

To: Foxborough Town Clerk
Foxborough Zoning Board of Appeals
Foxborough Planning Board
Scott Shippey, Foxborough Building Commissioner

Re: 24 East Belcher Road, Assessor's Map 108 Lots 001 and 002

Dear Mr. Shippey, Mr. Cutler, and Board Members:

Please consider this a notice of appeal, pursuant to G.L. c. 40A §15 and Foxborough Zoning Bylaw §10.1 and 10.2.2, of Mr. Shippey's zoning determination and order dated February 22, 2023 (the "Determination"), on behalf of my client, J. Cook Realty, LLC.

My clients respectfully disagree with the allegation that the property is used as an auto junkyard or auto graveyard as well as with the other allegations made in the Determination.

Note, however, that my client has begun to remove certain equipment and materials from the site pending further discussion and resolution of the matters raised in the Determination.

The property is primarily used as a commercial storage garage and motor vehicle repair shop, which is allowed as of right in the subject LI zone. Zoning Bylaw, §3.0; 3.16 C.5. The property is also used for the storage and sale and processing of non-combustible products, which is also permitted in the LI zone. Zoning Bylaw, §3.0; 3.16 B.1. Portions of the building are used for the transaction of business, pursuant to §3.16 D 1. Portions of the lot are used for outdoor storage and overnight parking of vehicles with a GVW in excess of 10,000 pounds, pursuant to §3.16 L. 6.

"Problems Solved and Avoided"

My client must retain the right to engage in these and other permitted uses, and any pre-existing, non-conforming uses, in order to maintain the financial viability of its businesses, and its tenant's business, at the site.

The building and land have been used in the current manner—auto repair, equipment and vehicle repair and storage, and contractor's yard—for many years beginning in, or likely before, 1960.

More particularly, the primary use of the property is as the site of Cook's Towing & Transport, Inc., including parking, storage, repair, and maintenance of trucks and trailers used in the business.

The property also includes rental bays that are leased to commercial tenants who repair cars and trucks.

My client also repairs, maintains, and modifies third-party trucks and trailers, including mounting new truck bodies onto existing truck chassis.

My client also stores vehicles, equipment and parts on site for its customers. Those vehicles, equipment, and parts are typically loaded into shipping containers and exported to foreign countries or transported to and sold at auction. This permits the vehicles, equipment and parts to be reused or recycled.

There are no on-site sales of any such materials.

My clients disagree that the materials on site qualify as "junk" or that its uses qualify as a "junkyard" —which terms are defined in the zoning bylaw—or an auto graveyard, which is not defined. Any automobiles and pieces of equipment at the Property are, or with very minor repairs such as the installation of a charged battery and fuel, could be made operable and are not junk.

My client also disagrees that any ongoing violations of WRPOD regulations are present at the site. In terms of petroleum storage, my clients are in compliance with applicable regulations as evidenced by a recent Board of Health inspection.

On information and belief, the use of this property as an automotive and truck service center predates enactment of the WRPOD and is therefore a protected use.

My client is committed to environmental safety and has, and will, continue to store any petroleum and other products necessary for its business safely and in accordance with application regulations.

My client leased part of the property (Parcel 108/002) in early 2001 and bought it in August, 2010 and has used that portion of the property for essentially the same purposes for over 20 years. My client purchased the adjacent property (Parcel 108/001) in 2008. That site was used as a contractor's yard and loam operation prior to my client's purchase and had been for some period of time.

The existing uses have been conducted on the site for many years.

With regard to site plan review, my client was not aware, having had multiple dealings with several building commissioners over the years, that site plan review would be required for a permitted use where there is no building on the site. To my knowledge, this issue was never raised. If it is ultimately determined that site plan review is required, my client will apply for it.

With regard to this and other properties my client has been subjected to continual harassment, surveillance, and complaints brought primarily by one individual. The underlying cause of this campaign against my client is unclear and my client is exploring its legal options with regard to this individual.

My client is willing to work with the Building Department and the Zoning Board to address this matter in a manner that permits my client to continue its operations with some reasonable adjustments, if and as necessary, in its use of the site.

Kindly notify me when this matter will be heard.

Thank you.

Very truly yours.


Jeffrey M. Lovely, Esq.



TOWN OF FOXBOROUGH

Building Department

Scott C. Shippey, Building Commissioner

40 South Street

Foxborough, MA 02035

Telephone: (508)543-1206

www.foxboroughma.gov

Gil Bonoan
Building Inspector

Michael T. Eisenhauer
Plumbing-Gas Inspector

Shawn P. Wills
Electrical Inspector

Kevin M. Duquette
Sealer of Weights and Measures

February 22, 2023

Jeffrey A. Cook & Sandra Cook
79 Spring Street
Foxborough, MA 02035

Delivered: Certified mail: 7021 1970 0000 3341 6839

Subject: Unlawful storage (Junkyard)/Contractor Yard

Location: 24 East Belcher Road, Foxborough, MA
Zoned; Limited Industrial
Assessor's Map 108, Lots 001 & 002

Dear Mr. Cook,

Please be advised that upon visual inspection of the property located at 24 East Belcher Road, Foxborough, the use of said land owned by J. Cook Realty, LLC and known as Assessor's Map 108, Lots 001 and 002 is in violation of Chapter 275: Zoning, Table 3-1 Table of Uses; 3.1.6, D.4 Junkyard, Auto Graveyard. This use is prohibited in all zoning districts of the Town in accordance with said sections of the Zoning By-Laws.

After careful research and review of the file of record the property in question was also cited back in August, 2010 in violation of Water Resource Protection Overlay District (WRPOD) regulations, specifically, Sections 9.4.8.3, which prohibits *Automobile graveyards and junkyards as defined in MGL c. 140B, § 1, or motor vehicle salvage operations* in the WRPOD, and 9.4.8.12; *Storage of liquid petroleum products of any kind, except those incidental to:*

*Normal household use and outdoor maintenance or the heating of a structure;
Storage of liquid petroleum products of any kind, except those incidental to:*

a. Normal household use and outdoor maintenance or the heating of a structure;

b. Waste oil retention facilities required by MGL c. 21, § 52A;

c. Emergency generators required by statute, rule or regulation; or

d. Treatment works approved by DEP designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters.

Storage as listed in these items shall be in either a freestanding container within a building, or in a freestanding container above ground level with protection adequate to contain a spill the size of the container's maximum capacity plus 10%. Treatment works approved by DEP designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters.

Storage as listed in these items shall be in either a freestanding container within a building, or in a freestanding container above ground level with protection adequate to contain a spill the size of the container's maximum capacity plus 10%.

As of a recent inspection of the subject premises by Town officers on December 9, 2022, said violations remain outstanding.

Furthermore, the record indicates that the property known as Assessor's Map 108, Lot 001 received a Site Plan Review from the Board of Selectmen on February 27, 1990, with conditions. At this time there have been no applications to modify this site plan review for the current use. Please see attached document for your review.

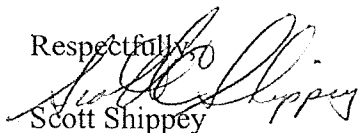
As the property owners of record, you are hereby directed to immediately cease and desist the illegal activity and to remove all construction equipment, junk, trailers, abandoned tanks, inoperable/unregistered vehicles and any other prohibited materials or waste, including liquid petroleum products, from the premises within thirty (30) days of receipt of this notice.

Failure to comply with this Order can and will be subject to a fine up to Three Hundred Dollars (\$300.00). Each day the unauthorized use continues, will constitute a new violation in accordance with Section 275-10.1.4.

Please also be aware, Section 10.1.5 of the Zoning By-Laws states: *In addition to the procedures for enforcement as described above, the provisions of these bylaws may also be enforced by the Building Commissioner by noncriminal complaint pursuant to the provisions of MGL c. 40, § 21D. Each day on which a violation exists shall be deemed to be a separate offense. The penalty for violation of any provision of these bylaws shall be \$50 for the first offense; \$100 for the second offense; and \$300 for the third and each subsequent offense.*

You have the appellate rights pursuant to statute (M.G.L c.40A) should you wish to appeal this order.

Respectfully,



Scott Shippey
Building Commissioner/Zoning Officer
Town of Foxborough

CC: William Keegan, Town Manager
Paige Duncan, Director of Land Use and Economic Development
Matthew Brennan, Director of Public Health
Selectboard

70 trees



BOARD OF SELECTMEN
TOWN OF FOXBOROUGH
MASSACHUSETTS 02035

MICHAEL DECENZO, CHAIRMAN
DONALD J. SCHMIDT, VICE CHAIRMAN
MICHAEL J. COPPOLA, CLERK

ANDREW A. GALA, JR.
TOWN ADMINISTRATOR
TELEPHONE: 508-543-1200

March 12, 1990

RECEIVED

MAR 13 1990

PLANNING
BOARD

Mr. Carmine Lorusso, Jr.
P.O. Box 602
Norfolk, MA 02056

Re: Application of John & Gerald Lorusso to operate a Loam & Gravel Processing Operation at 24 East Belcher Rd., Foxborough, MA
Site Plan Review - March 6, 1990

Dear Mr. Lorusso:

Please be advised that the Board of Selectmen, acting as the Site Plan Review Board for the Town of Foxborough, conducted a continued hearing on your site plan application on February 27, 1990.

After a presentation by your Attorney Michael Juster and engineers, the Board of Selectmen unanimously voted to approve your site plan application subject to the following conditions:

1. The site shall only be used to process loam/topsoil. There shall be no more than 200 cubic yards processed per day.
2. To protect abutters and street travelers from unsightly vistas the height of all piles of material, including loam/topsoil, shall not exceed 15 feet.
3. All attempts shall be made to control dust. A water truck shall be present during all times of operation. There shall be no processing during high winds or during adverse weather.
4. In order to insure the cleanliness of East Belcher Road any material including top soil, loam or residue on East Belcher Road from any operation on this site shall be immediately picked up and disposed of by the site owner or his agent.
5. To create a buffer/screen for the abutters an 8 foot stockade fence shall be installed according to the Plan/Detail. Fences shall be inspected by the site owner twice a year (in April and October) and any repairs shall be performed at this time. Any damage done to the fence, at any time, shall be repaired immediately. All trees and plantings shall conform to the Plan/Detail. All plants to be placed at the front property line shall be 6' high, 6' on center, staggered in double rows.
6. In order to stop the runoff of siltation and erosion onto abutting property, a siltation fence shall be installed at all perimeter areas down gradient of the site. All siltation fencing shall be inspected by the site owner twice a year (in April and October) and any repairs shall be performed at this time. Any damage done to the siltation fencing at any time, shall be repaired immediately.

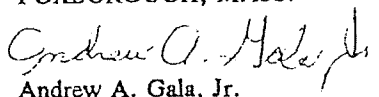
(70 trees)

7. All plantings on town property shall be maintained by the site owner or his agent. The area between the street pavement and the lot line shall be covered with bark much or half inch stone.
8. No more than 5 vehicles (including a loader and a water truck) shall be parked on the site overnight.
9. Any use of the water service located on the lot shall require metering per the Water/Sewer Department.
10. There shall be four (4) parking spaces required. All parking spaces and both driveways as well as the truck loading area shall be paved with proper drainage designed to the Board's satisfaction.
11. To insure that the completion of this site will be in conformance with this approval a \$20,000 Irrevocable Letter of Credit shall be submitted before the start of construction. Only the Town of Foxborough "Required Form" shall be used for the Letter of Credit.
12. To protect the abutters from unreasonable noise levels generated from this operation, noise levels shall not exceed ten (10) decibels over the norm as per the Department of Environmental Protection regulations and standards for industrial noise.
13. The hours of operation shall be ninety (90) minutes after sunrise to ninety (90) minutes before sunset.
14. Construction shall be completed within six months of this approval.
15. All of the above items shall be placed on the site plan and the site plan shall be endorsed by the Board of Selectmen before the start of construction will be allowed.
16. The use is limited to commercial vehicles which shall not exceed fifteen (15) per day with no retail sales from the site.

If you have any questions, please feel free to call me.

Very truly yours,

BOARD OF SELECTMEN
FOXBOROUGH, MASS.



Andrew A. Gala, Jr.
Town Administrator

AAG:bh

cc: Planning Board
Arthur Folsom, Building Commissioner
Arlene M. Crimmins, Town Clerk



BOARD OF ASSESSORS
TOWN OF FOXBOROUGH
40 SOUTH STREET
FOXBOROUGH MASSACHUSETTS 02035

(508) 543-1215

Fax: (508) 543-6278

CERTIFICATION OF ABUTTERS

PROPERTY OWNER: J. Cook Realty, LLC
MAILING ADDRESS: % JEFFREY M. LOVELY, PO. 510 FOXBORO MA 02035
PROPERTY LOCATION: 24 EAST BELCHER ROAD
ASSESSORS MAP/PARCEL: 108 001 / 1008 002
APPLICANT: JEFFREY M LOVELY, ESQ PHONE: 508 698 3000
AUTHORITY REQUESTING LIST: ZBA
DATE SUBMITTED: 3/19/23
LIST REQUESTED: 500 FT 300 FT 100FT ABUTTER TO ABUTTER

I, Kevin R. [Signature], acting as a custodian of assessment records, do hereby certify that the attached documents contain true and complete information from the most recent tax list of the Town of Foxborough, Massachusetts.

I further state that these documents include the names and addresses of abutters to the abutters map: 108/001 Map: 108/002

Date: 3/16/23

BOARD OF ASSESSORS
FOXBOROUGH MASSACHUSETTS

Massachusetts General Law c. 40A, s.11, "The assessors maintaining any applicable tax list shall certify to the permit granting authority or special permit granting authority the names and addresses of parties in interest and such certification shall be conclusive for all purposes."

The Assessors Office will complete the abutters list within 7-10 business days. There is a \$25.00 fee for an abutters list.

"The applicant is solely responsible for requesting the appropriate abutters list required by the applicable Mass General Law."

Abutting Properties for
 24 EAST BELCHER ROAD
 FOXBOROUGH, MA 02035
 108-002-000-000-0000
 (300 Feet)
 3/16/2023

Parcel Number	Property Address	Owner Name	Owner Address	Owner Address 2	Owner City	Owner State	Owner Zip
094-018-000	5 SPRING BROOK ROAD	G GREENE PROPERTIES LLC	240 LINCOLN STREET	PO BOX 160	BOSTON	MA	02134
094-019-000	1 SPRING BROOK ROAD	ROUNDS DANIEL A & CLAUDINE D TE	204 GREEN ST		FOXBOROUGH	MA	02035
108-001-000	EAST BELCHER ROAD	J COOK REALTY LLC	79 SPRING ST		FOXBORO	MA	02035
108-004-000	BELCHER ROAD	TOWN OF FOXBOROUGH	40 SOUTH STREET		FOXBOROUGH	MA	02035-0000
108-008-000	31 EAST BELCHER ROAD	DIII PROPERTIES MA LLC	1 ESPERSON CT		RIO VISTA	CA	94571
108-009-000	27 EAST BELCHER ROAD	DAGOSTINO ANTHONY P	27 EAST BELCHER RD		FOXBORO	MA	02035-0000
108-010-000	25 EAST BELCHER ROAD	MURPHY REALTY HOLDINGS, LLC	25 EAST BELCHER RD		FOXBORO	MA	02035-0000
108-011-000	23 EAST BELCHER ROAD	DIII PROPERTIES MA LLC	1 ESPERSON CT		RIO VISTA	CA	94571
108-012-000	21 EAST BELCHER ROAD	21 E BELCHER ROAD LLC	8B WEST STATE ST		GRANBY	MA	01033

Abutting Properties for
 EAST BELCHER ROAD
 FOXBOROUGH, MA 02035
 108-001-000-000-0000
 (300 Feet)
 3/16/2023

Parcel Number	Property Address	Owner Name	Owner Address	Owner Address 2	Owner City	Owner State	Owner Zip
094-018-000	5 SPRING BROOK ROAD	G GREENE PROPERTIES LLC	240 LINCOLN STREET	PO BOX 160	BOSTON	MA	02134
094-019-000	1 SPRING BROOK ROAD	ROUND S DANIEL A & CLAUDINE D TE	204 GREEN ST		FOXBOROUGH	MA	02035
108-002-000	24 EAST BELCHER ROAD	J COOK REALTY LLC	79 SPRING STREET		FOXBOROUGH	MA	02035
108-004-000	BELCHER ROAD	TOWN OF FOXBOROUGH	40 SOUTH STREET		FOXBOROUGH	MA	02035-0000
108-010-000	25 EAST BELCHER ROAD	MURPHY REALTY HOLDINGS, LLC	25 EAST BELCHER RD		FOXBOROUGH	MA	02035-0000
108-011-000	23 EAST BELCHER ROAD	DIII PROPERTIES MA LLC	1 ESPERSON CT		RIO VISTA	CA	94571
108-012-000	21 EAST BELCHER ROAD	21 E BELCHER ROAD LLC	8B WEST STATE ST		GRANBY	MA	01033

Data shown on this map is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this map.



March 16, 2023



Foxborough, MA

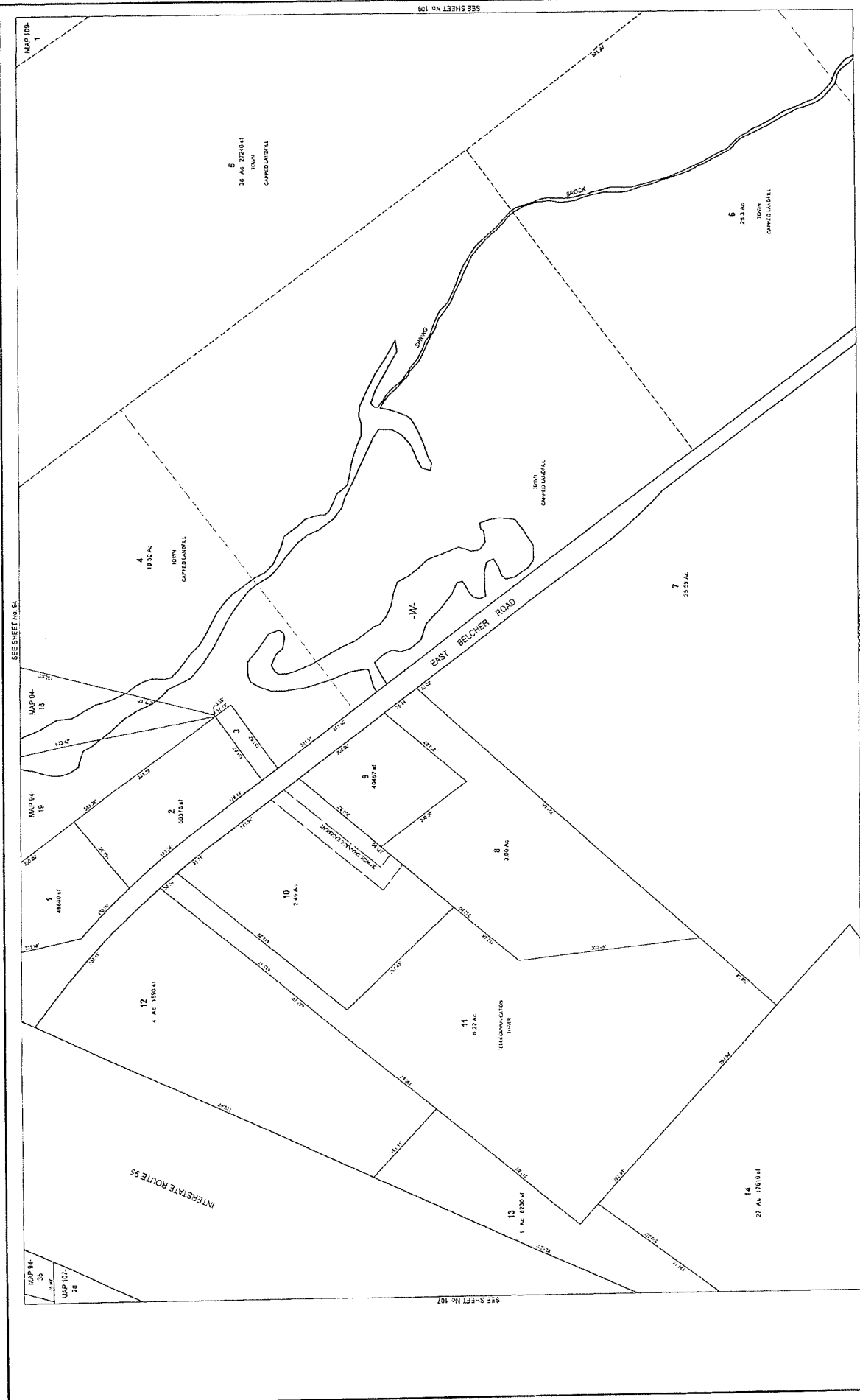
1 inch = 274 Feet

0 274 549 824

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Precision Mapping. Geospatial Solutions.



MAP 109-1

SEE SHEET NO. 109

SEE SHEET NO. 84

MAP 84-35
MAP 107-26

SEE SHEET NO. 107

MAP NO. 108

PROPERTY MAPS
FOXBOROUGH
MASSACHUSETTS

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SCALE: 1" = 60'

REVISION TO: JANUARY 1, 2019

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REVIEWED & REPRINTED BY

CAL Technologies

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Foxborough, MA 01935
TEL: 508-548-1000
WWW.CALTECH.COM

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THE HORIZONTAL DATA IN THE MASSACHUSETTS STATE PLANE COORDINATE SYSTEM (UMB 83).

ORIGINAL MAPS PREPARED BY SOUTH SHORE LAND SURVEYING