Chairman Malfitano called the Planning Board to order at 7:41 p.m. noting that all members of the Planning Board are present along with Planning Board Attorney, Nadine Bell; Town Engineer, Bill Perrine; and Planning Board Secretary, Mindy Mayer.

Talev Family Farm Subdivision (3 Lots)
Chairman Malfitano stated that there were 2 sets of plans dropped off at the Town Hall on March 9, 2020. One plan was dated September 20 and another that bore a date of October 14, 2019. The October 14, 2019, plan is the plan that was treated as a stipulated preliminary approval so the other plan is irrelevant for these purposes. Chairman Malfitano noted that there was no application filed for final approval. The plan was circulated to all Planning Board members for review and a resolution has been prepared on this matter. Chairman Malfitano read the resolution into the record as follows:

WHEREAS, Peter N. Talev, Kosta N. Talev and Slavko N. Talev, as Owners/Applicants, have submitted a Final Plan for the approval of a proposed subdivision in the Town of Onondaga known as the “Talev Family Farm Subdivision;” and

WHEREAS, as presented to the Town of Onondaga Planning Board, the proposed Final Plan, as was the Preliminary Plan, was purported to be in furtherance of and consistent with the 1981 Nikola Talev Height’s Subdivision (the “1981 Subdivision Plan”), recorded on July 15, 1981 in the Onondaga County Clerk’s office as Map No. 5944, which created five (5) lots with road frontage of approximately 660 lineal feet along Griffin Road; and

WHEREAS, the Planning Board previously identified discrepancies relating to land area and lot configuration between the 1981 Subdivision Plan and Applicants’ Preliminary Plan, the most notable of which was that approximately two-thirds of proposed Lot 11 was unaccounted for and not included in the 1981 Subdivision Plan; and

WHEREAS, the 1981 Subdivision Plan was a plan delineating lots only, without any improvements; and

WHEREAS, upon inquiry, one of the Applicants, Attorney Peter Talev, verified that he had
created and undertaken a number of conveyances involving the property and additional contiguous property owned and controlled by Attorney Talev and his brothers, without complying with the Town of Onondaga Land Subdivision Regulations; and

WHEREAS, at the request of the Planning Board and at the directions of the Applicants, Cottrell Land Surveyors, PC, revised the Preliminary Plan to include a “Parcel Conveyance Chronology,” identifying and outlining the history of conveyances that had been undertaken by Attorney Talev without compliance with the Subdivision Regulations; the “Parcel Conveyance Chronology” table setting forth those conveyances is attached to this resolution as Schedule “A;” and

WHEREAS, such “Parcel Conveyance Chronology” shows at least 11 other transactions of deeds with recording information that documents numerous transactions undertaken by Attorney Talev that both modify and alter the 1981 Subdivision Plan and incorporates other parcels of land to reconfigure the various lots, including specifically the Parcel G /Lot 11 owned by him; and

WHEREAS, the Preliminary Plan, as so revised, containing all the conveyances and deed revisions that were made by Attorney Talev without complying with the Town of Onondaga Land Subdivision Regulations, now comprised approximately 54.5 acres and approximately 1338.35 lineal feet along Griffin Road; and

WHEREAS, the requirements of 6 NYCRR Part 617 and the Town of Onondaga Local Law No. 6-1979 have previously been satisfied by the submission of a Short Environmental Assessment Form, dated June 2, 2019, and the Town of Onondaga Planning Board resolution dated August 26, 2019, wherein the Board determined that the proposed action will not have a significant effect on the environment and rendered a Negative Declaration; and

WHEREAS, the Planning Board had duly called and held a public hearing to consider the Preliminary Plat Plan, dated June 3, 2019, last revised September 20, 2019, prepared by Cottrell Land Surveyors, PC, on the plan containing approximately 54.5 acres, which hearing was held on the September 23, 2019; and

WHEREAS, despite the discrepancies from the 1981 Subdivision Plan, the Preliminary Plan, as certified by Gary Cottrell, Land Surveyor, was purported to have been prepared from an actual survey dated May 7, 1981 (the “Applicant 1981 Survey”), and object locations were allegedly “sourced from Google Maps;” and

WHEREAS, it was further determined that the Preliminary Plan, and the proposed Final Plan, contain land that was not a part of the Applicant 1981 Survey of the property and for which no survey has been shown to have been undertaken; and

WHEREAS, to address the Applicants’ various prior illegal subdivisions of land, the Preliminary Plan considered at the public hearing consisted of five (5) parcels, identified as Lots 45, 31, and 11, and Parcels H and F, and the aforementioned “Parcel Conveyance Chronology” which not only sets forth the series of conveyances that had occurred since 1977, but offered an explanation of the parcel designations depicted on the Preliminary Plan and accounted for the entirety of Lot 11; and

WHEREAS, notice of said hearing was published in the manner required by law and proof of said publishing had been presented to the Planning Board, and all persons desiring to be heard in connection with such proposed subdivision were duly heard and the Planning Board gave full consideration to the statements and views submitted at such hearing; and
WHEREAS, as explained by Applicant Attorney Talev at the public hearing, “the purpose of the proposed subdivision is to straighten out past subdivisions of the property that have occurred for the past 30 years and subdivide the property, which is now approximately 54 acres, semi-equally between the brothers” (see Town of Onondaga Planning Board Meeting Minutes, September 23, 2019); and

WHEREAS, during the public hearing, the Planning Board identified concerns as to the configuration of Lot 11 and questioned whether Lot 11, as presented, complied with the Town of Onondaga Zoning Regulations (“Zoning Regulations”), specifically, the side yard setback relating to the improvements of an inground pool wall, walk or equipment which shall not be located any closer to the side lot line than the main building side yard width, pursuant to Section 285-8(B)(3) of the Zoning Regulations; and

WHEREAS, during the public hearing, Applicant Attorney Talev submitted a copy of an area variance that had been obtained from the Town of Onondaga Zoning Board of Appeals in August 1986, “allowing the pool to be in the side yard of [proposed Lot 11] facing south;” however, despite Attorney Talev’s representations, the area variance did not address compliance with the side yard setback requirement (see Town of Onondaga Planning Board Meeting Minutes, September 23, 2019); and

WHEREAS, during the public hearing the Planning Board relied upon the representations of Applicant Attorney Talev and the survey presented as being true and accurate; and

WHEREAS, upon closing the public hearing, the Planning Board requested that the Applicants provide accurate information regarding the existing improvements, remove the shed reference from the Preliminary Plan, clarify the purpose of the lines depicted on the Plan, and provide specifics relative to the concrete apron surrounding the pool on proposed Lot 11 to confirm conformance; and

WHEREAS, the Preliminary Plan, dated June 3, 2019, last revised September 20, 2019, was duly referred to the Onondaga County Planning Board pursuant to General Municipal Law Section 239l, m and n, and, by Resolution of Case #S-19-65, dated September 18, 2019, determined that the referral will have no significant adverse inter-community or county-wide implications and may be acted on solely by the referring board; and

WHEREAS, subsequent to the closure of the public hearing, it was determined that the Preliminary Plan presented as a survey, by its own reference was not a survey of the entire property and was not true and accurate, as it did not identify improvements on the property; and

WHEREAS, as evidenced by the Planning Board’s October 14, 2019 meeting minutes, review of the Preliminary Plan prepared by Cottrell Land Surveyors, PC, which the Planning Board had relied upon, confirmed that the Plan contained many inaccuracies and misrepresentations, despite the representation on the Preliminary Plan that object locations were “sourced from Goggle Maps;” and

WHEREAS, during the Planning Board’s regularly scheduled meeting on October 14, 2019, Applicant Attorney Talev informed the Board that the diving board and concrete apron for an inground pool on proposed Lot 11, which were located within the side yard setback, had been removed and covered with sod, respectively, but did not offer any reason for such statements or other evidence in the record to prove that such improvements as existing comply with the Town’s Zoning Regulations, and further agreed to provide the Board with a current survey of proposed Lot 11; and

WHEREAS, as evidenced by the minutes of the Planning Board October 14, 2019 meeting, there
remained many open questions regarding the Applicants’ proposed Preliminary Plan, including but not limited to, the lack of showing existing improvements, failure to include dimensions to side yard setback lines to evidence that the lot configuration offered and the side yard setback were in conformance with the Town’s Zoning Regulations, and other potential violations of the Zoning Regulations; and

WHEREAS, the minutes of Planning Board’s October 14, 2019 meeting clearly indicate this matter was to be held over until the Board’s regularly scheduled October 28, 2019 meeting “so that the applicant has the opportunity to bring their surveyor, Mr. Cottrell, to further discuss the map and also to provide the survey of his [applicant’s] property;” the minutes further reflect that “[the Planning Board] want to see the survey of Peter Talev’s property, being Lot 11, showing the distances;” and

WHEREAS, the Applicants did not interpose any objection to either the requirement for additional information, nor an objection to the submission of the necessary additional information; and

WHEREAS, although this matter was included on the Planning Board’s agenda for its October 28, 2019 meeting, as evidenced by the public posting of the meeting agenda, the Applicants chose not to appear; and

WHEREAS, contrary to the representations of Applicant Attorney Talev, to date, the Planning Board has not received the survey for proposed Lot 11; and

WHEREAS, Lot 45 contains improvements that have been constructed on said Lot and there is no evidence that such improvements have been constructed in compliance with the Town’s Zoning Regulations or that such structures were issued building permits; and

WHEREAS, the Subdivision Regulations provide that where there is a conflict between the standards specified in the Subdivision Regulations and those of other codes of the Town of Onondaga, such as the Town’s Zoning Regulation, the most restrictive or higher standards shall apply; and

WHEREAS, on or about November 6, 2019, the Planning Board received from Applicants an entirely new purported “Preliminary Plan,” dated October 31, 2019, prepared by Cottrell Land Surveying, PC depicting three (3) lots identified as Lots 11, 31, and 45; and

WHEREAS, in addition to only depicting three (3) lots, the purported “Preliminary Plan” delivered to the Town of Onondaga Code Enforcement Office significantly deviated from the “Preliminary Plan” previously under consideration by the Planning Board; more specifically, the new purported “Preliminary Plan” did not include the “Parcel Conveyance Chronology” chart which the Planning Board deemed crucial to evaluate the prior illegal subdivisions and, despite the prior certification of Surveyor Cottrell as to the accuracy of the Preliminary Plan, included new permanent structures on Lots 11 and 45, including, but not limited to, solar panels, two (2) shed structures, and a carport; and

WHEREAS, Surveyor Cottrell and new legal counsel, Attorney Scott Chatfield, appeared at the Planning Board’s November 11, 2019 meeting without Applicants, to present the new purported “Preliminary Plan;” and

WHEREAS, in appearing before the Planning Board, Applicants’ legal counsel declined to answer whether the Applicants intended to submit a new application based upon the significantly altered purported “Preliminary Plan;” and

WHEREAS, the Planning Board has not held a public hearing on the new purported “Preliminary
Plan,” nor has the Planning Board referred same to the Onondaga County Planning Board pursuant to the General Municipal Law Section 239 l, m and n; and

WHEREAS, despite Applicants’ course of conduct and continued consent to provide the Planning Board with additional information, by letter dated November 14, 2019, Attorney Chatfield generally cited to the time limitations in Section III of the Subdivision Regulations and demanded that the Town of Onondaga Town Clerk (“Town Clerk”) issue a “Certificate of Default approval;” and

WHEREAS, as of the date of Attorney Chatfield’s letter, more than 45 days had passed since the September 23, 2019 public hearing on the Preliminary Plan was closed; and

WHEREAS, as a result of the passage of time since the closure of the public hearing on the Preliminary Plan, a stipulation of default approval of the Preliminary Plan, dated June 3, 2019, revised October 14, 2019 (“Deemed Approved Preliminary Plan”) was issued by the Town Clerk, despite the record that the Applicants had not provided the Planning Board with the outstanding items identified by the Planning Board at the conclusion of the September 23, 2019 public hearing on the Preliminary Plan; and

WHEREAS, on March 10, 2020 Attorney Chatfield delivered to the Town Clerk a plan dated June 3, 2019, revised October 14,2019 and last revised March 9, 2020 marked “Final”; and

WHEREAS, Applicants have not filed an application for a final plan approval.

Chairman Malfitano noted that certain findings and resolutions have been identified and he read them as follows:

FINDINGS:

1. To date, Applicants have not submitted a survey for the property of approximately 54.5 acres, as depicted on the Deemed Approved Preliminary Plan.

2. A “survey” for the purposes of the Subdivision Regulations is a drawing showing the layout of the proposed subdivision, including, but not limited to, road and lot layout and approximate dimensions, key plan, topography and drainage, all proposed facilities unsized, including preliminary plans and profiles, at suitable scale prepared in accordance with the standards set forth in Section VI (B) of the Subdivision Regulations. Such drawing shall contain a deed description and map of survey of the tract boundary, made and certified by a licensed surveyor, to be a closed and balanced traverse and showing the location of property lines, existing easements, buildings, watercourses and other essential features and is not older than 24 months from the date of application. Where a subdivision of land contains improvements or existing structures, such improvements or existing structures shall be shown (a “Survey”).

3. Applying this definition of a Survey, the Applicants’ Final Plan does not meet the standards on which the Planning Board can rely for the following reasons:
   a. The reference to the Applicant 1981 Survey, dated May 7, 1981 for a portion of the property is at least 39 years old.
   b. Applicants cannot rely upon the Applicant 1981 Survey, which is a dimension survey of lots for only a portion of the property to be subdivided; when measured on road frontage, such Final Plan contains only 660 feet of road frontage, which is only 49% of the total road frontage (1338.35’ feet) shown on the Deemed Approved Preliminary Plan.
c. The Applicant 1981 Survey does not show any buildings or accessory structures, as none existed when such survey was prepared.

d. Without an accurate Survey, the submitted Final Plan fails to represent the accuracy of property lines or the location of any improvements.

e. The Final Plan relies on “Object Location sourced from Google Maps” and notes that such object location “is subject to actual survey verification,” for which a Survey has not been provided.

f. The Planning Board takes notice that readily available information confirms that the use of a “zoom” feature on Google Map can only be viewed to around 2 meters or 10 feet from the shown scale.

g. The Planning Board takes notice that readily available information confirms that satellite data on Google Maps may be 1 to 3 years old or older.

h. The Final Plan identifies inconsistencies between the Final Plan and Google Maps, on which the Final Plan purports to rely; a specific example is the different configuration of the pool on Lot 11 when compared to Google Maps. “IG Pool” location for Lot 11 on the Final Plan is simply a rectangle noted by a dotted line with no detail. Pool location for Lot 11 as viewed from the Google Map is irregular in shape at the north and south ends with other improvements shown.

i. Town Law Section 277, and the Subdivision Regulations, provide that before approval by a planning board of a plat the planning board shall determine compliance with zoning regulations. The statute at Paragraph 3 states: “[w]here a zoning ordinance or local law has been adopted by the town, the lots shown on the plat shall at least comply with the requirements thereof…”.

j. The Town of Onondaga has adopted a zoning ordinance as set forth in Chapter 285 of the Code of the Town of Onondaga (the aforementioned “Zoning Regulations”).

k. The proposed Final Plan shows certain improvements that have been constructed in violation of the Zoning Regulations; to wit:

i. Parcel F shows a shed located in front line of building in violation of Section 285-25 A of the Zoning Regulations.

ii. Parcel H contains “Solar Panels” located within the minimum 20’ side yard setback area in violation of Section 285-8 D of the Zoning Code.

iii. Parcel G contains pool walk and equipment improvements located within the minimum 20’ side yard setback area in violation of the Zoning Code 285-8D and Section 285-8 B(3). The record documents that Applicants have a Survey depicting these improvements and has repeatedly refused to provide same.

iv. Parcel D contains a structure which is denoted as a “carport” is a free-standing structure within the definition of an Accessory Structure as defined in the Zoning Regulations. The existence of this Accessory Structure in the front line of building is in violation of Section 285-25A of the Zoning Regulations.

l. The Final Plan fails to contain contour information as required by Section VI (D) of the Subdivision Regulations.

Based on such Findings the Planning Board makes the following Resolutions:

RESOLVED, in accordance with Section 1 of the Subdivision Regulations, the Planning Board has the power and authority to approve plats of a subdivision and that such approval shall be in accordance with the procedures and regulations set forth therein and are a prerequisite to the filing of any plat for the subdivision in the office of the Onondaga County Clerk; and it is further
RESOLVED, the Final Plan submitted for approval contains a number of errors and deficiencies that are within the control and ability of the Applicants to correct to conform to the requirements of the Subdivision Regulations prior to submission of the Final Plan for signature constituting final approval; and it is further

RESOLVED, the Final Plan contains a new notation that object location “is subject to actual survey verification”. It is the Applicants’ obligation and burden to prepare and submit plans and documents that conform to the Subdivision Regulations. It is not the responsibility of the Planning Board or any third party to prepare or undertake a Survey, on Applicants’ private property, to confirm the accuracy of Applicant’s non survey drawing; and it is further

RESOLVED, that the Planning Board hereby ratifies and reaffirms the Board’s prior SEQRA findings that the proposed subdivision will not have a significant effect on the environment; and it is further

RESOLVED, that the Planning Board waives the requirement of a further public hearing on the Final Plan; and it is further

RESOLVED, that the Planning Board does hereby grant Final Plan Approval of the Talev Family Farm Subdivision consisting of approximately 54.5 acres based upon a plan dated June 3, 2019, revised October 14, 2019, and last revised as of March 9, 2020 subject to the following conditions and corrections to comply with the Subdivision Regulations:

a. The Final Plan shall be updated, amended and corrected to be based on a Survey, as herein defined above, of the entire property of approximately 54.5 acres and that a notation be placed upon the Final Plan as to the date of the Survey of the entire property.

b. Topographic data, as required by Section VI of the Subdivision Regulations, shall be added to the Final Plan.

c. Reference to the “Project Area” on the Final Plan be corrected to the total acreage referenced in the published notice of public hearing on the Preliminary Plan of 54.5 acres.

d. Based upon the failure of Lot/parcel F, Lot 11/Parcel G and Lot 45/Parcel D to comply with the requirements of the Zoning Regulations as is required by Town Law, Section 277 and the conforming requirements of the Subdivision Regulations, a new note must be added to the “NOTES” on the Final Plan, being of the same size font as the other NOTES and to be highlighted in Bold font stating “Lot and Parcels F, Lot 11/Parcel G and Lot 45/Parcel D do not comply with the requirements of the Zoning Law of the Town of Onondaga and are deemed nonconforming lots containing nonconforming elements as defined in the Zoning Regulations”; and it is further

e. RESOLVED, that the Final Plan when submitted for signature bear the signature of the owners of all five (5) lots or parcels; and it is further

RESOLVED, that Applicants shall cause such conditions and corrections to the Final Plan to be made by the Applicants before, and within the required time frame, submission of the Final Plan for signature by the Planning Board; and it is further

RESOLVED, that if in the future the Applicants, or any of the lot owners of lots/Parcels F, lot 11/Parcel G and Lot 45/Parcel D within the Final Plan obtain an appropriate variance granted by the Town of Onondaga Zoning Board of Appeals, or cause any of such lots/Parcels to be made to comply with the requirements of the Zoning Regulations, such parties may apply for an amendment of the Final Plan to
request such Note described in subparagraph (d) above be revised.

The Planning Board notes a typographical error on Applicants’ submitted Final Plan which references a final revision date of “March 9, 2000.” The Board recognizes the error and asks that the plan be changed and corrected to be dated March 9, 2020.

A motion was made by Mr. Fuller and seconded by Mr. Baker to approve the resolution. The question of the foregoing Resolution was duly put to a roll call vote, which resulted as follows:

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<tr>
<th>Name</th>
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<tbody>
<tr>
<td>Marc Malfitano</td>
<td>Chairman</td>
<td>Yes</td>
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<tr>
<td>Alfred J. Fuller</td>
<td>Board Member</td>
<td>Yes</td>
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<tr>
<td>James Mahaney</td>
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Deguoff Subdivision (2 Lots)
Chairman Malfitano noted that this matter had been delayed due to meeting cancellations due to the corona virus. Mr. Perrine provided an email to the Planning Board noting that generally the survey complied and indicating two verbiage corrections. In the notes, paragraph 6, reference should be made to the newly combined lot rather than lots. In the seventh paragraph the following words should be deleted: “according to a letter dated February 21, 2020, addressed to the Town of Onondaga Planning Board from C&S Engineers.” The balance of that paragraph regarding the frontage requirement should remain.

Chairman Malfitano then made a motion to waive further public hearing, grant preliminary and final approval of the Deguoff Subdivision based upon a plan prepared by Lehr Surveyors dated January 7, 2020, last revised May 11, 2020, subject to the following corrections on the plan: notes paragraph 6 should read lot rather than lots; and notes paragraph 7 delete “according to a letter dated February 21, 2020, addressed to the Town of Onondaga Planning Board from C&S Engineers.” Ms. Campbell seconded the motion. The motion was put to roll call vote and passed as follows:

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Gemelli’s Pizzeria
A referral from the Codes Office for property located in the West Seneca Turnpike Overlay District was received for a proposed plan involving 4543 W. Seneca Turnpike (formerly Froggers) which has been taken over by Michael Wicker. There is a proposed name change to Gemelli’s Pizzeria and a proposed plan to change the paint colors to Sherwin Williams AC-100 Package White, Sherwin Williams AC-100 Westchester Grey, and Sherwin Williams AC-100 Real Red. Additionally there is questions as to the proposed sign size and if it complies with the code. The applicant will be asked to apply the Overlay District requirements.

Chairman Malfitano then dictated a letter to the Codes Enforcement Officer. A copy is attached hereto.
**Planning Board Minutes**

A motion was made by Mr. Fuller, seconded by Ms. Campbell, that after the Board approve and accept the meeting minutes of the January 27, 2020, meeting. The motion was put to roll call vote and passed as follows:

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<tr>
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A motion was made by Mr. Fuller, seconded by Mr. Baker, that the Board approve and accept the meeting minutes of the February 20, 2020, meeting. The motion was put to roll call vote and passed as follows:

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A motion was made by Ms. Campbell, seconded by Mr. Mahaney, that the Board approve and accept the meeting minutes of the February 24, 2020, meeting. The motion was put to roll call vote and passed as follows:

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A motion was made by Chairman Malfitano, seconded by Mr. Baker, that after minor changes, the Board approve and accept the meeting minutes of March 9, 2020, meeting. The motion was put to roll call vote and passed as follows:

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A motion was made by Chairman Malfitano, seconded by Mr. Fuller, that there being no further business to come before the Board the meeting be adjourned. The motion passed unanimously and the meeting was adjourned at approximately 8:25 p.m.

Respectfully submitted,

Melinda L. Mayer
Secretary
May 11, 2020

Mr. Ben Vincent, Code Enforcement Officer
Town of Onondaga
5020 Ball Road
Syracuse, NY 13215

Re: 4543 West Seneca Turnpike - Former Froggers Pizzeria

Dear Mr. Vincent:

We have reviewed the picture and plan for the proposed change of color and signage for what is now to be referenced as Gemelli’s Pizzeria. The colors submitted to us are Sherwin Williams – AC100 Package White, Sherwin Williams – AC100 Westchester Gray, and Sherwin Williams – AC100 Real Red.

We have no objection to the proposed change in colors for the structure and improvements. We find the signage colors and proposed configuration acceptable.

Any question regarding the size or number of signs is within your authority as the Codes Enforcement Officer. Otherwise, we have no objection to the proposed changes.

Very truly yours,

Marc A. Malfitano

Marc A. Malfitano, Chairman
Town Planning Board