

**Ontario Municipal Board**  
Commission des affaires municipales  
de l'Ontario



**ISSUE DATE:** March 23, 2017

**CASE NO(S):** PL160949

**PROCEEDING COMMENCED UNDER** subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	Wentworth Condominium Corporation 293
Applicant:	2384614 Ontario Ltd.
Subject:	Minor Variance
Variance from By-law No.:	90-145-Z
Property Address/Description:	272 Dundas St. East
Municipality:	City of Hamilton
Municipal File No.:	A-228/16
OMB Case No.:	PL160949
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OMB Case Name:	Wentworth Condominium Corporation 293 v. Hamilton (City)

**Heard:** February 22, 2017 in Dundas, Ontario

**APPEARANCES:**

**Parties**

**Representative**

Wentworth Condominium Corporation 293	Bruce Brown
2384614 Ontario Ltd.	Sameh Aly

**MEMORANDUM OF ORAL DECISION DELIVERED BY HEATHER GIBBS ON  
FEBRUARY 22, 2017**

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[1] This is an appeal by Wentworth Condominium Corporation 293 (the "Appellant") of a decision by the City of Hamilton (the "City") Committee of Adjustment ("COA") to permit eight variances to Zoning By-law No. 90-145-Z, for a property at 272 Dundas

Street East in Dundas, Ontario (the “subject property”). 2384614 Ontario Ltd. is the Applicant. The variances would permit a proposed commercial and residential building at a significant intersection in Dundas, and relate to maximum lot coverage, building height, a planting strip, and the location of parking and of a decorative archway. The Appellant is the only abutting neighbour of the subject property.

[2] At the outset of the hearing, Mr. Brown, the Appellant’s planner, informed the Ontario Municipal Board (“Board”) that a settlement between the Applicant and the Appellant had been reached in principle. Mr. Brown explained that the settlement agreement would modify the proposed redevelopment to the satisfaction of the Appellant in a number of ways, including:

- Restrictions on above-ground parking
- Placement of fencing and plantings, and assumption of cost
- Placement of waste receptacles

[3] Both parties confirmed that none of these items necessitate modifications to the variances granted by the COA nor do they necessitate any additional variances. Mr. Brown advised that the City, which was not present at the hearing, has confirmed that it has no concerns with the revisions to the proposed redevelopment.

[4] Mr. Brown further advised that the parties are not able to finalize the settlement until the next meeting of the Appellant’s Board of Directors, to occur later in the spring of 2017.

[5] Based on a joint request of the parties, the Board adjourned the hearing in anticipation of a finalized settlement agreement being reached between the parties. The parties are directed to advise the Board following the next meeting of the Appellant’s Board of Directors as to whether a settlement has been finalized and whether the appeal will be withdrawn as a result. The Board notes that the general

practice of the Board is not to approve settlement agreements, which are agreements between parties, but to consider settlement as part of the evidence heard on an appeal.

[6] Should a full settlement not be reached or should the settlement reached necessitate the Board's adjudication, the Board may be spoken to.

[7] The member is not seized.

*"Heather Gibbs"*

HEATHER GIBBS  
MEMBER

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**Ontario Municipal Board**

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