



Conservation
Halton

SECTION 28

CONSERVATION AUTHORITIES ACT

HEARING PROCEDURES

THE HALTON REGION CONSERVATION AUTHORITY

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**The Halton Region Conservation Authority
Section 28 (12), Section 28 (13), Section 28 (14)
Conservation Authorities Act
Hearing Procedures**

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HEARING PROCEDURES

The Halton Region Conservation Authority

1.0 PURPOSE OF HEARING PROCEDURES:

The purpose of these Hearing Procedures is to reflect changes to the Conservation Authorities Act. The Act requires that the applicant be provided an opportunity for a hearing by the Conservation Authority Board (sitting as a Hearing Board) for an application to be refused or approved with contentious conditions. Further, a permit may be refused if, in the opinion of the Authority, the proposed development adversely affects the control of flooding, erosion, dynamic beaches, or pollution or conservation of land or causes undue interference to a wetland or alteration to a watercourse. The Hearing Board is empowered by law to make a decision, governed by the Statutory Powers Procedures Act.

The Hearing Rules are adopted under the authority of Section 25.1 of the Statutory Powers Procedures Act (SPPA). The SPPA applies to the exercise of a statutory power of decision where there is a requirement to hold or to afford the parties to the proceeding an opportunity for a hearing prior to a decision. The SPPA sets out minimum procedural requirements governing such hearings and provides rule-making authority to establish rules to govern such proceedings.

The Hearing Board shall hear and decide whether the application will be approved with or without conditions or refused. In the case of hearings related to applications submitted purposed to Section 28.0.1, the Hearing Board shall determine what conditions, if any, will be attached to the permission.

These procedures provide a step-by-step process to conduct hearings required under Section 28 (12), (13), and (14) of the Conservation Authorities Act. In accordance with the model hearing guidelines developed by Conservation Ontario and updated in 2021, these procedures are intended to promote consistency and ensure that The Halton Region Conservation Authority (Conservation Halton) hearings meet the legal requirements of the Statutory Powers Procedures Act without being unduly legalistic or intimidating to the participants. Additional considerations related to hearings under Section 28.0.1 (7) are provided in Attachment 1.

2.0 PREHEARING PROCEDURES

2.1 Role of the Hearing Board

In considering the application, the Hearing Board is acting as a decision-making tribunal. The tribunal is to act fairly. Under general principles of administrative law relating to the duty of fairness, the tribunal is obliged not only to avoid any bias but also to avoid the appearance or reasonable apprehension of bias. The following are three examples of steps to be taken to avoid apprehension of bias where it is likely to arise.

- (a) No member of Conservation Halton taking part in the hearing should have prior involvement with the application that could lead to a reasonable apprehension of bias on the part of that member. Where a member has a personal interest, the test is whether a reasonably well-informed person would consider that the interest might have an influence on the exercise of the official's public duty. Where a member is a municipal councillor, the Municipal Conflict of Interest Act applies. In the case of a previously expressed opinion, the test is that of an open mind, i.e., is the member capable of persuasion in participating

in the decision making.

- (b) If material relating to the merits of an application that is the subject of a hearing is distributed to Board members before the hearing, the material shall be distributed to the applicant at the same time. The applicant may be afforded an opportunity to distribute similar pre-hearing material. These materials may be distributed electronically.
- (c) The applicant will be given an opportunity to attend the hearing before a decision is made; however, the applicant does not have to be present for a decision to be made.

2.2 Application

The right to a hearing arises where staff is recommending refusal of an application or where an applicant intends to appeal the conditions of approval of an application. The applicant is entitled to reasonable notice of the hearing pursuant to the Statutory Powers Procedures Act.

2.3 Notice of Hearing

The Notice of Hearing shall be sent to the applicant within sufficient time to allow the applicant to prepare for the hearing. To ensure that reasonable notice is given, the applicant shall be consulted to determine an agreeable date and time based on the Authority's regular meeting schedule.

The Notice of Hearing must contain or append the following:

- (a) Reference to the applicable legislation under which the hearing is to be held (Conservation Authorities Act).
- (b) The time, place, and the purpose of the hearing or for electronic hearings, the time, purpose of the hearing, and details about the manner in which the hearing will be held. The Notice must also contain a statement that the applicant should notify the Authority if they believe holding the hearing electronically is likely to cause them significant prejudice. The Authority shall assume the applicant has no objection to the electronic hearing if no such notification is received.
- (c) Particulars to identify the applicant, property, and the nature of the application, which are the subject of the hearing. If the applicant is not the landowner but the prospective owner, the applicant must have written authorization from the registered landowner.
- (d) The reasons for the proposed refusal or conditions of approval shall be specifically stated. This should contain sufficient detail to enable the applicant to understand the issues so he or she can be adequately prepared for the hearing.

It is sufficient to reference in the Notice of Hearing that the recommendation for refusal or conditions of approval is based on the reasons outlined in previous correspondence or a hearing report that will follow.

- (e) A statement notifying the applicant that the hearing may proceed in the applicant's absence and that the applicant will not be entitled to any further notice of the proceedings.

Except in extreme circumstances, it is recommended that the hearing not proceed in the absence of the applicant.

- (f) Reminder that the applicant is entitled to be represented at the hearing by a representative such as legal counsel, if desired. The conservation authority may be represented at the hearing by counsel or staff. The applicant shall inform the conservation authority in advance if they will be represented by legal counsel.

The Notice of Hearing shall be directed to the applicant and/or landowner by registered mail. Refer to **Appendix A** for an example Notice of Hearing.

2.4 Presubmission of Reports

The applicant shall be provided with all reports from staff that will be provided to the Hearing Board. The applicant shall be given two weeks to prepare a report once the reasons for the staff recommendations have been received. Subsequently, this may affect the timing and scheduling of the staff hearing reports.

2.5 Hearing Information

Prior to the hearing, the applicant shall be advised of Conservation Halton's hearing procedures.

3.0 HEARING

3.1 Public Hearing

Pursuant to the Statutory Powers Procedure Act, hearings, including electronic hearings, are required to be held in public. For electronic hearings, public attendance should be synchronous with the hearing. The exception is in very rare cases where public interest in public hearings is outweighed by the fact that intimate financial, personal, or other matters would be disclosed at hearings.

3.2 Hearing Participants

The Conservation Authorities Act does not provide for third party status at the hearing. The hearing however is open to the public. Any information provided by third parties should be incorporated within the presentation of information by, or on behalf of, the applicant or Authority staff as appropriate.

3.3 Attendance of Hearing Board Members

In accordance with case law relating to the conduct of hearings, those members of the Authority who will decide whether to grant or refuse the application must be present during the full course of the hearing. If it is necessary for a member to leave, the remaining members can continue with the hearing and render a decision.

3.4 Adjournments

The Board may adjourn a hearing on its own motion or that of the applicant or Authority staff where it is satisfied that an adjournment is necessary for an adequate hearing to be held.

Any adjournments form part of the hearing record.

3.5 Orders and Directions

The Authority is entitled to make orders or directions to maintain order and prevent the abuse of its hearing processes. A hearing procedures example has been included as **Appendix B**.

3.6 Information Presented at Hearings

- (a) The Statutory Powers and Procedures Act requires that a witness be informed of their right to object pursuant to the Canada Evidence Act. The Canada Evidence Act indicates that no witness shall be excused from answering questions on the basis that the answer may be incriminating. Further, answers provided during the hearing are not admissible against the witness in any criminal trial or proceeding. This information should be provided to the applicant as part of the Notice of Hearing.
- (b) It is the decision of the hearing members as to whether information is presented under oath or affirmation. It is not a legal requirement. The applicant must be informed of the above, prior to or at the start of the hearing.
- (c) The Board may authorize receiving a copy rather than the original document, however, the Board can request certified copies of the document if required.
- (d) Privileged information, such as solicitor/client correspondence, cannot be heard. Information that is not directly within the knowledge of the speaker (hearsay), if relevant to the issues of the hearing, can be heard.
- (e) The Board may take into account matters of common knowledge such as geographic or historic facts, times measures, weights, etc. or generally recognized scientific or technical facts, information or opinions within its specialized knowledge without hearing specific information to establish their truth.

3.7 Conduct of Hearing

3.7.1 Record of Attending Hearing Board Members

A record shall be made of the members of the Hearing Board.

3.7.2 Opening Remarks

The Chairperson shall convene the hearing with opening remarks, which generally; identify the applicant, the nature of the application, and the property location; outline the hearing procedures; and advise on requirements of the Canada Evidence Act. **Appendix C** provides a model for the Chairperson's Opening Remarks. In an electronic hearing, all the parties and the members of the Hearing Board must be able to clearly hear one another and any witnesses throughout the hearing.

3.7.3 Presentation of Authority Staff Information

Staff of the Authority presents the reasons supporting the recommendation for the refusal or conditions of approval of the application. Any reports, documents or plans that form part of the presentation shall be properly indexed and received.

Staff and/or legal counsel of the Authority should not submit new technical information at the hearing, as the applicant will not have had time to review and provide a professional opinion to the Hearing Board.

One staff member or legal counsel shall coordinate the presentation of information on behalf of Authority staff and ask questions on behalf of Authority staff.

3.7.4 Presentation of Applicant Information

The applicant has the opportunity to present information at the conclusion of the Authority staff presentation. Any reports, documents or plans, which form part of the submission should be properly indexed and received.

The applicant shall present information as it applies to the permit application in question. For instance, does the requested activity affect the control of flooding, erosion, dynamic beach or conservation of land or pollution, interfere with a wetland or adversely alter a watercourse? The hearing does not address the merits of the activity or appropriateness of such a use in terms of planning.

- The applicant may be represented by legal counsel or agent, if desired
- The applicant may present information to the Board and/or have invited advisors to present information to the Board
- The applicant(s) presentation may include technical witnesses, such as an engineer, ecologist, hydrogeologist etc.

The applicant should not submit new technical information at the hearing, as the Staff of the Authority will not have had time to review and provide a professional opinion to the Hearing Board.

3.7.5 Questions

Members of the Hearing Board may direct questions to each speaker as the information is being heard. The applicant and /or agent can make any comments or ask questions on the staff report.

Pursuant to the Statutory Powers Procedure Act, the Board can limit questioning where it is satisfied that there has been full and fair disclosure of the facts presented. It should be note that the courts have been particularly sensitive to the issue of limiting questions and there is a tendency to allow limiting of questions only where it has clearly gone beyond reasonable or proper bounds.

3.7.6 Deliberation

After all the information is presented, the Hearing Board may adjourn the hearing and retire in private to confer. The Hearing Board may reconvene on the same date or at some later date to advise of its decision. The Board members shall not discuss the hearing with others prior to the decision being finalized.

4.0. DECISION

The applicant must receive written notice of the decision. The applicant shall be informed of the right to appeal the decision within 30 days upon receipt of the written decision, to the Ontario Land Tribunal.

It is important that the hearing participants have a clear understanding of why the application was refused or approved. The Board shall itemize and record information of particular significance which led to their decision.

4.1 Notice of Decision

The decision notice should include the following information:

- (a) The identification of the applicant, property and the nature of the application that was the subject of the hearing.
- (b) The decision to refuse or approve the application. A copy of the Hearing Board resolution should be attached.

The written Notice of Decision shall be forwarded to the applicant by registered mail. A sample Notice of Decision and cover letter has been included as **Appendix D**.

4.2 Adoption

A resolution advising of the Board's decision and particulars of the decision should be adopted.

5.0 RECORD

The Authority shall compile a record of the hearing. In the event of an appeal, a copy of the record should be forwarded to the Ontario Land Tribunal. The record must include the following:

- (a) The application for the permit.
- (b) The Notice of Hearing.
- (c) Any orders made by the Board (e.g., for adjournments).
- (d) All information received by the Board.
- (e) Attendance of hearing Board members.
- (f) The decision and reasons for the decision of the Board.
- (g) The Notice of Decision sent to the applicant.

6.0 Hearing under Section 28.0.1 (Permission for Development, Zoning Order)

Section 28.0.1 of the *Conservation Authorities Act* came into force with the Royal Assent of Bill 229, *Protect, Support and Recover from COVID-19 Act* (Budget Measures), 2020. This section applies to any application submitted to an authority under a regulation made under Section 28 of the Act for permission to carry out all or part of a development project associated with an approved Minister's Zoning Order (MZO). For such applications, an Authority **must** grant permission to the applicant to carry out the activity, provided an MZO has been made by the Minister of Municipal Affairs and Housing, and provided that the authority's regulated area in which the development activity is proposed to take place is not located in the Greenbelt Area designated under section 2 of the *Greenbelt Act*. A permission which is granted under s.28.0.1 may be subject to conditions as prescribed by the issuing Authority.

Understanding that an Authority **must** grant permission for applications submitted pursuant to an approved MZO (pending the above-noted conditions are met), hearings for these applications differ from those under Section 28(12) of the Act, in that a hearing **cannot** be held to determine if a permission should be refused.

Where an application is submitted pursuant to s. 28.0.1 of the *Conservation Authorities Act*, the Authority may refuse to grant a permit only if:

- i) a zoning order has not been made to authorize the development project,
- ii) the project is proposed to be carried out in the Greenbelt Area, and
- iii) if all other prescribed requirements have not been satisfied.

The following table provides a step-by-step process to conduct hearings required under Section 28.0.1 (7) of the *Conservation Authorities Act*. Most guidance provided in the body of the Section 28 Hearing Guidelines is applicable to the s. 28.0.1 (7) hearing process. Where processes differ, the table below outlines the necessary considerations for the s. 28.0.1 (7) processes.

| Application Section in Conservation Halton's Hearing Guidelines | Additional Guidance and/or Processes for S. 28.0.1 (7) Hearings |
|---|--|
| <p>1.0 Purpose of Hearing Guidelines</p> | <p>For hearings related to applications submitted pursuant to s. 28.0.1 of the <i>Conservation Authorities Act</i>, the Authority must grant permission to the applicant, provided the requirements set out under this section of the Act are met.</p> <p>For hearings related to applications submitted pursuant to Section 28.0.1, the Hearing Board shall determine what conditions, if any, will be attached to the permission.</p> |
| <p>2.1 Role of the Hearing Board</p> | <p>Where a hearing is required for applications submitted pursuant to s. 28.0.1 of the <i>Conservation Authorities Act</i> (e.g., to determine the conditions of the permission), final decisions on the conditions shall not be made until such a time as the applicant has been given the opportunity to attend a hearing.</p> |
| <p>2.2 Application</p> | <p>Additionally, in the case of applications submitted pursuant to s. 28.0.1 of the <i>Conservation Authorities Act</i>, the authority shall not attach conditions to a permission unless the applicant has been given an opportunity to be heard by the authority.</p> |

| Application Section in Conservation Halton’s Hearing Guidelines | Additional Guidance and/or Processes for S. 28.0.1 (7) Hearings |
|--|--|
| 4.1 Notice of Decision | <p>The decision notice should include the following information:</p> <p>(a) The identification of the applicant, property and the nature of the application that was the subject of the hearing.</p> <p>(b) The decision to refuse or approve the application, and in the case of applications under s. 28.0.1 of the <u>Conservation Authorities Act</u>, the decision to approve the application with or without conditions. A copy of the Hearing Board resolution should be attached.</p> <p>It is recommended that the written Notice of Decision be forwarded to the applicant by registered mail. A sample Notice of Decision and cover letter has been included as Appendix F.</p> |
| Appendix E | Appendix E provides an example “Notice of Hearing” for hearings under Section 28.0.1 (7) of the <u>Conservation Authorities Act</u> . |
| Appendix F | Appendix F provides an example “Notice of Decision” for hearings under Section 28.0.1 (7) of the <u>Conservation Authorities Act</u> . |

Appendix A

NOTICE OF HEARING

IN THE MATTER OF

The Conservation Authorities Act,
R.S.O. 1990, Chapter 27

AND IN THE MATTER OF an application by

**FOR THE PERMISSION OF THE
THE HALTON REGION CONSERVATION AUTHORITY**

Pursuant to Regulations made under
Section 28, Subsection 12 of the said Act

TAKE NOTICE THAT a Hearing before The Halton Region Conservation Authority will be held under Section 28, Subsection 12 of the Conservation Authorities Act at the administrative office located at 2596 Britannia Road West, Burlington, Ontario, at the hour of 4:00 p.m. on the day of _____, 2____, [for electronic hearings, include details about the manner in which the hearing will be held] with respect to the application by (**NAME**) to permit development within an area regulated by the Authority in order to ensure no adverse affect on (**the control of flooding, erosion, dynamic beaches or pollution or conservation of land, alter or interfere with a watercourse, shoreline or wetland**) on Lot x, Plan/Lot xx, Concession x, (**Street**) in the City/Town of x , Regional Municipality of x , x watershed.

TAKE NOTICE THAT you are invited to make a delegation and submit supporting written material to the Board of Directors of The Halton Region Conservation Authority for the meeting of (**meeting date**). If you intend to appear, [For electronic hearings: or if you believe that holding the hearing electronically is likely to cause significant prejudice], please contact (**name**). Written material will be required by (**date**), to enable the Board members to review the material prior to the meeting.

TAKE NOTICE THAT this hearing is governed by the provisions of the Statutory Powers Procedure Act. Under the Act, a witness is automatically afforded a protection that is similar to the protection of the Ontario Evidence Act. This means that the evidence that a witness gives may not be used in subsequent civil proceedings or in prosecutions against the witness under a Provincial Statute. It does not relieve the witness of the obligation of this oath since matters of perjury are not affected by the automatic affording of the protection. The significance is that the legislation is Provincial and cannot affect Federal matters. If a witness requires the protection of the Canada Evidence Act that protection must be obtained in the usual manner. The Ontario Statute requires the tribunal to draw this matter to the attention of the witness, as this tribunal has no knowledge of the affect of any evidence that a witness may give.

AND FURTHER TAKE NOTICE that if you do not attend at this Hearing, the Board of Directors of The Halton Region Conservation Authority may proceed in your absence, and you will not be entitled to any further notice in the proceedings.

DATED the _____ day of, _____ 2_____

Per:
Chief Executive Officer/Secretary-Treasurer

Appendix B

HEARING PROCEDURES

1. Motion to sit as Hearing Board.
2. Roll Call followed by the Chairperson's opening remarks. For electronic hearings, the Chairperson shall ensure that all parties and the Hearing Board are able to clearly hear one another and any witnesses throughout the hearing.
3. Staff will introduce to the Hearing Board the applicant/owner, his/her agent and others wishing to speak.
4. Staff will indicate the nature and location of the subject application and the conclusions.
5. Staff and/or counsel will present the staff report included in the Authority agenda, including the reasons why the application was recommended for denial or approval with conditions. These reasons will be related to the control of flooding, erosion, pollution, dynamic beaches, and/or conservation of land.
6. The applicant and/or his/her agent will present their material in the Authority agenda, and the reasons why the application should be considered.
7. The applicant/agent may question staff and/or their agent if reasonably required for full and fair disclosure of matters presented at the hearing. The staff and/or counsel may question the applicant/agent, if reasonably required for full and fair disclosure of matters presented at the hearing.¹
8. The Hearing Board will question, if necessary, both the staff and the applicant/agent.
9. The Hearing Board will move into deliberation. For electronic meetings, the Hearing Board will separate from the other participants for deliberation.
10. Members of the Hearing Board will move and second a motion.
11. A motion will be carried which will culminate in the decision.
12. The Hearing Board will move out of deliberation. For electronic meetings, the Hearing Board will reconvene with other participants.
13. The Chairperson or Acting Chairperson will advise the owner/applicant of the Hearing Board decision.
14. If the decision is "to refuse" or "approve with conditions", the Chairperson or Acting Chairperson shall notify the owner/applicant of his/her right to appeal the decision to the Ontario Land Tribunal within 30 days of receipt of the reasons for the decision.
15. Motion to move out of Hearing Board.

¹ As per the *Statutory Powers Procedure Act*, a tribunal may reasonably limit further examination or cross-examination of a witness where it is satisfied that the examination or cross-examination has been sufficient to disclose fully and fairly all matters relevant to the issues in the proceeding.

Appendix C

CHAIRPERSON'S OPENING REMARKS

(Section 28, Subsection 12 of the Conservation Authorities Act)
With Respect to Ontario Regulation 162/06

We are now going to conduct a hearing under Section 28 of the Conservation Authorities Act in respect of an application by _____, for permission to_____.

Conservation Halton has regulations under Section 28 of the Conservation Authorities Act which require the permission of the Authority for development within an area regulated by the Authority, in order to ensure no adverse effects on (the control of flooding, erosion, dynamic beaches or pollution or conservation of land) or to permit alteration to a shoreline or watercourse or interference with a wetland.

The Staff has reviewed this proposed work and prepared a staff report, a copy of which has been given to the applicant and the Board. The applicant was invited to file material in response to the staff report, a copy of which has also been provided to the Board.

Under Section 28 (12) of the Conservation Authorities Act, the person requesting permission has the right to a hearing before the Authority Board of Directors who sit as a Hearing Board.

In holding this hearing, the Hearing Board is to determine whether or not a permit is to be issued, with or without conditions. In doing so, we can only consider the application in the form that is before us, the staff report, and such evidence as may be given and the submissions to be made on behalf of the applicant. **Only information disclosed prior to the hearing to be presented at the hearing.**

The proceedings will be conducted according to the Statutory Powers Procedure Act. Under Section 5 of the Canada Evidence Act, a witness may refuse to answer any question on the ground that the answer may tend to incriminate the person or may tend to establish his/her liability to a civil proceeding at the instance of the Crown or of any person.

The procedure in general shall be informal without the evidence before it being given under oath or affirmation unless decided by the hearing members.

If the applicant has any questions to ask of the Hearing Board or of the Authority representative, they must be directed to the Chairperson of the board.

The Applicant is reminded that the time allotted for their presentation is limited. The presentation should summarize the key points outlined in their submitted materials. At all times, comments must be respectful to staff and Hearing Board members.

The hearing will be conducted as per Conservation Halton's approved Hearing Procedures.

Appendix D

NOTICE OF DECISION

(Date)

BY REGISTERED MAIL

(name)

(address)

Dear:

RE: NOTICE OF DECISION
Hearing Pursuant to Section 28(12) of the Conservation Authorities Act
Proposed (*development*)
Address [Lot , Plan , if applicable] ; City of
Application #:

In accordance with the requirements of the Conservation Authorities Act, The Halton Region Conservation Authority provides the following Notice of Decision:

On (***meeting date and number***), the Hearing Board for the Halton Region Conservation Authority refused/approved your application/approved your application with conditions. A copy of the Board's resolution # has been attached for your records. Please note that this decision is based on the following reasons: (***the proposed development/alteration to a watercourse or shoreline adversely affects the control of flooding, erosion, dynamic beaches or pollution or interference with a wetland or conservation of land***).

In accordance with Section 28 (15) of the Conservation Authorities Act, an applicant who has been refused permission or who objects to conditions imposed on a permission may, within 30 days of receiving the reasons under subsection (14), appeal to the Minister who may refuse the permission; or grant permission, with or without conditions. Through Order in Council 332/2018 the responsibility for hearing the appeal has been transferred to the Ontario Land Tribunal. For your information, should you wish to exercise your right to appeal the decision, a letter by you or your agent/counsel setting out your appeal must be sent within 30 days of receiving this decision addressed to:

Ontario Land Tribunal
655 Bay Street, Suite 1500
Toronto, Ontario M5G 1E5

A carbon copy of this letter should also be sent to this conservation authority. Should you require any further information, please do not hesitate to contact (***staff contact***) or the undersigned.

Yours truly,

President and Chief Executive Officer/Secretary Treasurer
Enclosure

Appendix E

NOTICE OF HEARING

(Subsection 28.0.1 (7) of the Conservation Authorities Act)

IN THE MATTER OF

The Conservation Authorities Act, R.S.O. 1990, Chapter 27

AND IN THE MATTER OF an application by

FOR THE PERMISSION OF THE HALTON REGION CONSERVATION AUTHORITY

Pursuant to Regulations made under Section 28.0.1, Subsection 7 of the said Act

TAKE NOTICE THAT a Hearing before The Halton Region Conservation Authority will be held under Section 28.0.1, Subsection 7 of the Conservation Authorities Act at the administrative office located at 2596 Britannia Road West, Burlington, Ontario, at the hour of 4:00 p.m., on the day of _____, 2____, [for electronic hearings, include details about the manner in which the hearing will be held] with respect to the application by (**NAME**) to permit development within an area regulated by the Authority in association with a Minister's Zoning Order (REGULATION NUMBER) on Lot , Plan/Lot , Concession , (**Street**) in the City of x, Regional Municipality of x , x watershed.

TAKE NOTICE THAT you are invited to make a delegation and submit supporting written material to the Executive Committee for the meeting of (**meeting number**). If you intend to appear [For electronic hearings: or if you believe that holding the hearing electronically is likely to cause significant prejudice], please contact (**name**). Written material will be required by (**date**), to enable the Committee members to review the material prior to the meeting.

TAKE NOTICE THAT pursuant to Section 28.0.1 of the Conservation Authorities Act, a conservation authority is required to grant the permission applied for and may only impose conditions to the permission. The Hearing will therefore focus on the conditions to be imposed to the granting of the permission.

TAKE NOTICE THAT this hearing is governed by the provisions of the Statutory Powers Procedure Act. Under the Act, a witness is automatically afforded a protection that is similar to the protection of the Ontario Evidence Act. This means that the evidence that a witness gives may not be used in subsequent civil proceedings or in prosecutions against the witness under a Provincial Statute. It does not relieve the witness of the obligation of this oath since matters of perjury are not affected by the automatic affording of the protection. The significance is that the legislation is Provincial and cannot affect Federal matters. If a witness requires the protection of the Canada Evidence Act that protection must be obtained in the usual manner. The Ontario Statute requires the tribunal to draw this matter to the attention of the witness, as this tribunal has no knowledge of the affect of any evidence that a witness may give.

AND FURTHER TAKE NOTICE that if you do not attend at this Hearing, the Members of The Halton Region Conservation Authority may proceed in your absence, and you will not be entitled to any further notice in the proceedings.

DATED the ___ day of, _____ 202X.

Per:
Chief Administrative Officer/Secretary-Treasurer

Appendix F

CHAIRPERSON'S OPENING REMARKS

(Section 28.0.1, Subsection 7 of the *Conservation Authorities Act*)
With Respect to Ontario Regulation 162/06

We are now going to conduct a hearing under Section 28.0.1 of the *Conservation Authorities Act* in respect of an application by _____, for permission to _____.

Under Section 28.0.1 of the *Conservation Authorities Act*, an Authority is required to grant permission for any application submitted under a regulation made under subsection 28(1) for permission to carry out all or part of a development project, in an area regulated by the Authority, associated with a Minister's Zoning Order, provided the criteria listed under subsection 28.0.1 (1) are met. A permission is subject to any conditions as may be prescribed by the Authority.

The Staff has reviewed this proposed work and prepared a staff report, including the proposed conditions of approval for the proposed work, a copy of which has been given to the applicant and the Board. The applicant was invited to file material in response to the staff report, a copy of which has also been provided to the Board.

Under Section 28.0.1 (7) of the *Conservation Authorities Act*, the person requesting permission has the right to a hearing before the Authority.

In holding this hearing, the Authority is to determine the prescribed conditions to be attached to the approved permission. In doing so, we can only consider the application in the form that is before us, the staff report, such evidence as may be given and the submissions to be made on behalf of the applicant. Only information disclosed prior to the hearing is to be presented at the hearing.

The proceedings will be conducted according to the *Statutory Powers Procedure Act*. Under Section 5 of the *Canada Evidence Act*, a witness may refuse to answer any question on the ground that the answer may tend to incriminate the person, or may tend to establish his/her liability to a civil proceeding at the instance of the Crown or of any person.

The procedure in general shall be informal without the evidence before it being given under oath or affirmation unless decided by the hearing members.

If the applicant has any questions to ask of the Hearing Board or of the Authority representative, they must be directed to the Chairperson of the board.

The Applicant is reminded that the time allotted for their presentation is limited. The presentation should summarize the key points outlined in their submitted materials. At all times, comments must be respectful to staff and Hearing Board members.

The hearing will be conducted as per Conservation Halton's approved Hearing Procedures.