

**DISCLOSURE OF APPEARANCE OF CONFLICT OF INTEREST
AS REQUIRED BY G. L. c. 268A, § 23(b)(3)**

	PUBLIC EMPLOYEE INFORMATION
Name of public employee:	COLE, William R
Title or Position:	HARDWICK PLANNING BOARD, CHAIR
Agency/Department:	(ELEVEN)
Agency address:	307 MAIN ST PO BOX 575 GILBERTVILLE, MA 01031
Office Phone:	413-477-6197
Office E-mail:	planningboard@hardwick-ma.gov
	In my capacity as a state, county or municipal employee, I am expected to take certain actions in the performance of my official duties. Under the circumstances, a reasonable person could conclude that a person or organization could unduly enjoy my favor or improperly influence me when I perform my official duties, or that I am likely to act or fail to act as a result of kinship, rank, position or undue influence of a party or person. I am filing this disclosure to disclose the facts about this relationship or affiliation and to dispel the appearance of a conflict of interest.
	APPEARANCE OF FAVORITISM OR INFLUENCE
Describe the issue that is coming before you for action or decision.	SITE PLAN REVIEW FOR NEW DORMITORY ON EAGLE HILL SCHOOL CAMPUSES (242 OLD PETERSHAM ROAD, HARDWICK, MA - STARTS 8/5/25.
What responsibility do you have for taking action or making a decision?	I WILL PARTICIPATE AS A PB member (MAKING A QUORUM OF 3) TO REVIEW, DISCUSS AND POSSIBLY APPROVE SITE PLAN FOR CONSTRUCTION OF A NEW 25K+ sq student DORMITORY (PER H2B 3.2.3.4 and 5.0)
Explain your relationship or affiliation to the person or organization.	MY RESIDENCE IS A 12 ACRE PARCEL AT 787 PETERSHAM RD (RT 32A). ACROSS THE HIGHWAY ARE TWO PARCELS OWNED BY EHS, THE ONE WHERE THE DORM MIGHT BE BUILT, THE PARCEL (#242 OLD PETERSHAM RD.)

How do your official actions or decision matter to the person or organization?	ETHS DOES NOT REQUIRE A SPECIAL PERMIT FOR THIS PROJECT (AS A 40A.3 TAX-EXEMPT), BUT SEEKS APPROVAL OF THE SITE PLAN BY THE PLANNING BOARD IN RESPECT TO ASPECTS SUBJECT TO SPR.
Optional: Additional facts – e.g., why there is a low risk of undue favoritism or improper influence.	MY RESIDENCE PARCEL AND THAT FOR WHICH THE PROJECT IS PROPOSED ARE ~740' APART, AND SEPARATED BY TWO ROADS AND RESIDENCES. I AM UNAFFECTED BY PROJECT OR ITS CONSTRUCTION OR USE.
If you cannot confirm this statement, you should recuse yourself.	WRITE AN X TO CONFIRM THE STATEMENT BELOW. ☒ Taking into account the facts that I have disclosed above, I feel that I can perform my official duties objectively and fairly.
Employee signature:	<i>W. H. - R. C.</i>
Date:	8/4/25

Attach additional pages if necessary. (3) ✓

Not elected to your public position – file with your appointing authority.

Elected state or county employees – file with the State Ethics Commission.

Members of the General Court – file with the House or Senate clerk or the State Ethics Commission.

→ Elected municipal employee – file with the City Clerk or Town Clerk.

Elected regional school committee member – file with the clerk or secretary of the committee.

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RECEIVED

Chiu, Ting (ETH) <ting.chiu@mass.gov>**8/4/2025 9:26 AM****Your Inquiry****To bcolema@comcast.net <bcolema@comcast.net>****CONFIDENTIAL****Dear William Cole:**

This email summarizes the phone advice that I provided to you in response to your July 29, 2025 request for advice regarding the conflict of interest law, G.L. c. 268A.

You are an elected member of the Planning Board in Hardwick, and you currently serve as the Chair. During my first phone conversation with you regarding your inquiry, the Planning Board's Vice Chair, Harry Comerford was present, with your permission.

At an upcoming Planning Board meeting on August 5, 2025, the Planning Board will be considering a Site Plan Review from an applicant called Eagle Hill School ("EHS"). EHS has filed the application with the Planning Board for its approval because EHS wishes to build new dormitories on its campus. The new dormitories will be built within EHS's property / parcel located at 242 Old Petersham Road in Hardwick.

You own your home located at 787 Petersham Road in Hardwick. You are a direct abutter to other property owned by EHS and its Foundation, including EHS / EHS Foundation property which abuts 242 Old Petersham Road. The closest distance between an edge of your parcel and the EHS parcel located at 242 Old Petersham Road is approximately 742 feet.

You ask whether you may participate in the Site Plan Review as a member of the Planning Board.

As we discussed, as a municipal employee, you must comply with § 19. Section 19, in relevant part, prohibits a municipal employee from participating in a particular matter in which the municipal employee has, or their immediate family member has, a financial interest. Note that "participation" includes discussing and delegating a particular matter to someone else, as well as deciding or making recommendations with regard to a matter. A financial interest may be large or small, positive or negative, and must be direct and immediate or reasonably foreseeable.

Under § 19, it is presumed that you have a financial interest in an abutting or nearby property when:

- your property directly abuts (i.e., it shares any part of a property line); or**
- your property is directly opposite a street, public way or private way, or you are an abutter to an abutter within 300 feet of the property line; or**

- you, because of an act or failure to act by the board or commission, may suffer an injury in fact which is different either in kind or magnitude from that suffered by the general public; or
- the matter would otherwise alter your property value, rights, or use. For example, a property owner is presumed to have a financial interest in zoning changes, variances, nearby subdivision or development approvals, and roadway, sewerage or safety improvements.

You should carefully review the following advisory regarding voting on matters affecting abutting or nearby property: Advisory 05-02: Voting on Matters Affecting Abutting or Nearby Property.

Given the location of your property, you are not presumed to have a financial interest in the Site Plan Review for either of the first two reasons above, i.e. you are not an abutter to the EHS parcel at 242 Old Petersham Road and you are also not an abutter to an abutter within 300 feet of the property line of the EHS parcel.

However, as we also discussed, you would also be presumed to have a financial interest in the Site Plan Review if, because of an act or failure to act by the Planning Board, you may suffer an injury in fact which is different either in kind or magnitude from that suffered by the general public; or the EHS proposed dormitory project would otherwise alter your property value, rights, or use. If either of these presumptions apply to you, you must recuse yourself from the Site Plan Review.

If and only if § 19 does not raise issues in your situation, then you may participate in the Site Plan Review so long as you comply with § 23. Section 23(b)(3) prohibits a municipal employee from acting in a manner which would cause a reasonable person, having knowledge of the relevant circumstances, to conclude that any person can improperly influence or unduly enjoy their favor in the performance of their official duties, or that they are likely to act or fail to act as a result of kinship, rank, position, or undue influence of any person or party. Provided that you can act fairly and without bias as it relates to EHS, and you are able to assess the Site Plan Review on its merits only, you may do your official duties relating to the matter if you first file a § 23(b)(3) disclosure form in order to dispel the appearance of any conflict of interest. If you are unable to judge the matter impartially, then you should abstain. See the Section 23(b)(3) disclosure form and instructions on how to complete form.

Furthermore, § 23(b)(2) provides in relevant part that a municipal employee may not use or attempt to use their official position to secure unwarranted privileges or exemptions of substantial value (\$50 or more) for himself or others, that are not available to similarly situated individuals. For example, you may not use your Planning Board position to obtain special benefits or advantages for yourself, EHS, or others. For additional information on § 23, see Advisory 05-01: Standards of Conduct.

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Sincerely,
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