

CITY OF PORTSMOUTH New Hampshire

CONDITIONAL USE PERMIT APPLICATION

Department Use Only

Assessor Plan # _____	Lot # _____	Date _____
Zone _____	Lot area _____	Fee \$ <u>200.00 pd 11-28-18</u>
		By <u>516 # 05-18</u>

Applicant Kristin Fichera/Tree House School Owner of Record Brick Act, LLC

Applicant Street Address 102 State Street Owner Street Address P.O. Box 1389

Applicant City / State / Zip Portsmouth, NH 03801 Owner City / State / Zip Portsmouth, NH 03802

Applicant phone (603) 436.0666 (c/o Counsel) Owner phone (_____) _____

Applicant e-mail c/o tphoenix@hpgrlaw.com

Location (street address) of proposed work: 102 State Street Portsmouth

Existing Use: Preschool

All applications must file an [online building permit application](https://portsmouthnh.viewpointcloud.com/#/1071) (https://portsmouthnh.viewpointcloud.com/#/1071) or reference an existing one on file.

Building Permit Application # 35142

Requesting a Conditional Use Permit Per Section 10.1112.52 of the Zoning Ordinance.

Provide a detailed description of the project, including reference to the relevant Zoning Sections and how the criteria of the Zoning Ordinance are met (Attach additional sheets as necessary):

See attached Memorandum

The undersigned certifies that all the required conditions exist for granting of this request according to the terms of the Zoning Ordinance as demonstrated in the attached submittals.

Only complete applications will be accepted by the deadline date. A complete application shall consist of: a completely filled out application form with original signatures, the application fee, twelve (12) packets of required plans and any supporting documents or photos, and an electronic file in PDF format of application and all submissions. Incomplete applications will not be accepted. Applications received after the deadline will be scheduled for the following month. The owner or his/her representative is required to attend the Planning Board Public Hearing for the above Conditional Use Permit.

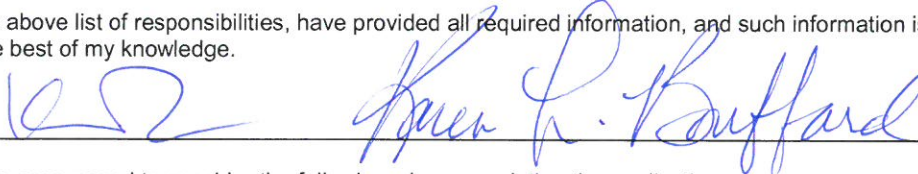
Signature of Property Owner (If not owner, authorization to file on owner's behalf is required) Date 11/27/18

Please PRINT name here Kristin Fichera

**Applicant's Responsibilities
& Submission Requirements**

1. All applications for Conditional Use Permits (CUP) must be submitted to the Planning Department prior to the published deadline.
2. An online Building Permit application must also be filed or referenced for the project in order for the CUP application to be considered complete.
3. An applicant shall only be the owner of the property or the owner's authorized representative.
4. It is the obligation of the applicant to submit adequate plans and exhibits to demonstrate compliance with the criteria outlined in the Zoning Ordinance.
5. The applicant shall submit one (1) original and eleven (11) copies of the application and any plans, exhibits, and supporting documents.
6. If a Site Plan is submitted as supporting documentation to the application, the applicant shall submit four (2) full-size (22"x34") copies and six (10) reduced (11"x17").
6. The applicant shall provide electronic files in Portable Document Format (PDF) of all submittals.
7. The Planning Department reserves the right to refuse applications which do not meet these minimum requirements. The Planning Department may also require additional information and/or exhibits as needed to illustrate the scope of the project.

I have read the above list of responsibilities, have provided all required information, and such information is current, accurate, and complete to the best of my knowledge.

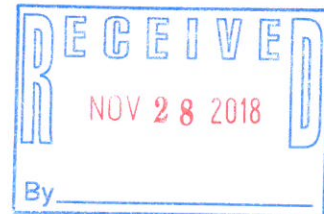
 11/27/18
(Applicant's Signature, date)

The Applicant is encouraged to consider the following when completing the application:

- Provide neat and clearly legible plans and copies
- Use of color or highlights is encouraged in order to identify pertinent areas on plans
- Applicants are encouraged to review the application with a member of the Planning Department staff prior to submittal
- All applicants are encouraged to discuss the project with impacted neighbors

This permit application is intended for the conditional use permit requests for the following relevant sections of the Zoning Ordinance:

- Section 10.720 – Flexible Development – Open Space PUD/Residential Density PUD
- Section 10.835 – Accessory Drive-through Uses
- Section 10.5A43.43 – Building Footprint (CD4, CD4-W, CD5)
- Section 10.5A46.22.1(f) – Community Space on a separate lot
- Section 10.5A46.23 – Community Space excess credit
- Section 10.5B25.20 – Excess dwelling units per building (Gateway Neighborhood Mixed-Use Districts)
- Section 10.5B41.10 – Development Site approval (Gateway Neighborhood Mixed-Use Districts)
- Section 10.5B72 – Density Bonus Incentives (Gateway Neighborhood Mixed-Use Districts)
- Section 10.862 – Hours of Operation
- Section 10.1112.52 – Maximum and Minimum Number of Parking Spaces
- Section 10.1112.62 – Shared parking on separate lots



HOEFLE, PHOENIX, GORMLEY & ROBERTS, P.A.
ATTORNEYS AT LAW

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Telephone: 603.436.0666 | Facsimile: 603.431.0879 | www.hpgrlaw.com

November 28, 2018

HAND DELIVERED

Juliet T.H. Walker, Planning Director
~~Mary Koepenick, Administrative Clerk~~
Portsmouth Planning Board
City Hall
1 Junkins Avenue
Portsmouth, NH 03801

Re: Kristin Fichera, Applicant, Brick Act, LLC, Owner
Project Location: 100-102 State Street
Tax Map 107/Lot 52-0001

Dear Ms. Walker and Ms. Koepenick:

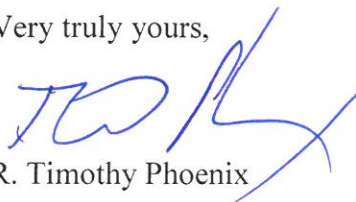
On behalf of Applicant, Kristin Fichera ("Fichera"), we are pleased to submit the following in support of her request for a Conditional Use Permit to allow less than the minimum required number of parking spaces:

- Building Permit Application – filed electronically.
- 11/27/2018 – Conditional Use Permit Application.
- My firm's check for \$200.00.

Also enclosed is an original and eleven (11) copies (a full pdf set is emailed as well) of our Memorandum of Law in support of the application with related exhibits.

We look forward to presenting the application to Planning Board at its December 20, 2018 Meeting.

Very truly yours,



R. Timothy Phoenix

RTP/mfk

Encl.

cc: Kristin Fichera
Brick Act, LLC

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OF COUNSEL:
SAMUEL R. REID

MEMORANDUM

TO: Portsmouth Planning Board (“PB”)
FROM: R. Timothy Phoenix, Esquire
RE: Conditional Use Permit Application
Kristin Fichera/Tree House School, Applicant
Brick Act, LLC, Owner
Property Location: 100-102 State Street
Tax Map 107/Lot 52-0001
Character District 4 (CD4)



DATE: November 28, 2018

Dear Chairman Legg and Planning Board Members:

On behalf of Kristin Fichera (“Fichera”), we are pleased to submit this request for a Conditional Use Permit to allow less than the minimum required off-street parking for the aforementioned business.

I. Exhibits

1. Parking trends observed by Tree House Owner, Kristin Fichera
2. Parent emails regarding parking availability.
3. Petition in support of parking relief signed by abutting businesses

II. Applicable City Zoning Ordinance Sections:

PZO §10.112.32.3.2 and PZO §10.112.50-52(a) – Preschool for up to 28 children ages 3 to 5 providing 0 parking spaces where 14 parking spaces are required.

III. Previous Relief Granted by Portsmouth Zoning Board of Adjustment May, 2017

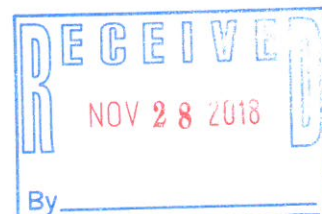
PZO§10.112.30.7 – To permit a preschool for 20 children age 3 to 5 providing 0 parking spaces where 10 are required and where, prior to the preschool application relief was granted for 0 retail spaces where 4 were required, and 0 residential spaces where 2 were required. There is no place on-site to locate parking.

IV. Required Parking Demand Analysis

In April, 2017 the ZBA approved relief to permit 0 parking spaces for this preschool where 10 were required for 20 students. The Applicant now intends to utilize the upstairs for an additional 8 students for a total of 28 students. The current apartment use of the upstairs will cease. Under PZO § 10.1112.321. Use 7.12: Group Daycare, the required number of spaces is .5 per client or student based on licensed enrollment capacity. In this case, 14 spaces would be required.

To obtain a Conditional Use Permit allowing less than the minimum required parking spaces, the Applicant submits the following Parking Demand Analysis pursuant to PZO §10.112.52:

- This is an area of downtown where public parking is available and a walking and biking atmosphere is prevalent. The 100-102 State Street location cannot and has never provided on-site parking. Were the building/lot approximately one block up State Street or approximately one block up Chapel Street towards Daniel Street, it would be in the downtown overlay district which would require no parking.
- There is no actual need for dedicated parking spaces for the children because parents deliver their children school utilizing curbside or public parking for a few moments, and some children do not arrive in cars at all. Working parents deliver their children and continue on to a destination with parking; stay at home parents deliver their children and return home. Parents living close by do not use a car much of the time. This is confirmed by the information collected by Tree House School Owner Kristin Fichera over the past year that Tree House has been operating. (**Exhibit 1**).
- Metered parking exists on the street starting at 9:00 a.m. Many children are delivered prior to that time.
- There is a City of Portsmouth public lot directly across the street. Parking is usually available on State Street. Another public lot exists at the corner of Marcy and State Streets next to Prescott Park.
- The lightly traveled Atkinson Street is only a few feet away from 100-102 State Street.



- Morning drop off and afternoon pickup is staggered as some children are dropped off earlier and picked up earlier, while others arrive later and stay later; this is also true of the additional students who would occupy the upstairs classroom.
- Some students are siblings and therefore arrive and depart together, so the number of enrolled students does not necessarily equal the number of arrivals and departures.
- The target market is parents living within walking distance and/or working downtown.
- There are no similar academic based preschools in downtown Portsmouth.
- There is significant demand for the services as evidenced by the fact that the school is full at 20 students presently with the ability to fill the additional 8 students, 3 of whom are siblings.
- No parking related complaints have been received by Tree House from abutting businesses, local officials, or parents of current Tree House students. **(Exhibit 1)**. Parents also report no difficulty in parking. **(Exhibit 2)**.
- A number of Treehouse School's nearest neighbors all support the request and agree that Treehouse School's operation creates no parking issues impacting their respective residences and businesses. **(Exhibit 3)**.

V. **Additional Criteria**

In accordance with PZO §10.1112.52(a), "requests to provide less than the minimum required by Section 10.1112.30 shall include permanent measures to reduce parking demand, including but not limited to provision of rideshare services servicing the property, proximity to public transit, and shared parking on a separate lot subject to the requirements of Section 10.1112.62."

Response: The nature of this business lends itself to a reduced parking demand in comparison to a retail, office, or residential use. Local parents deliver children and return home, or working parents deliver their children and continue to their office destination. Sibling attendance is expected to increase, and sibling attendance will not increase the amount of parking needed. **(Exhibit 1)**. The majority of current students walk or bike to school with their parents about half the year. **(Exhibit 1)**. No parent parks longer than necessary to drop off or pick up their preschooler. **(Exhibit 2)**. The hours of the business contrast with abutting retail and



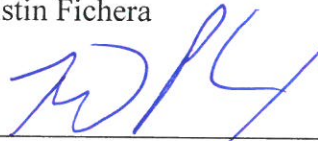
restaurants that open later in the day, stay open into the evening and are open on weekends. This is evident from the expressions of support from abutting businesses. **(Exhibit 3)**.

VI. Summary

Based upon the previous relief granted by this Board in 2017, the absence of complaints about parking and the reduced parking demand of a preschool, there is a compelling basis for granting the requested Conditional Use Permit to accommodate the additional students.

Respectfully submitted,

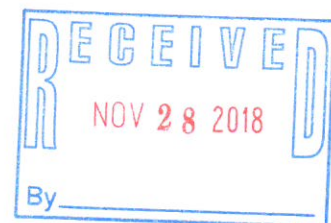
Kristin Fichera



By: R. Timothy Phoenix
Hoefle Phoenix Gormley & Roberts, P.A.
127 Parrott Avenue
Portsmouth, NH 03801
603.436.0666

RTP/mfk
Encl.

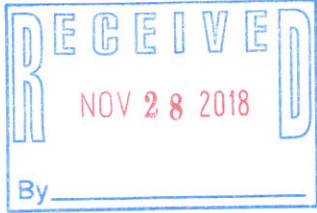
cc: Kristin Fichera
Brick Act, LLC

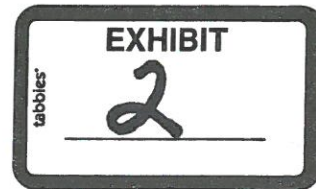


There are 25 students currently enrolled at The Treehouse School of Portsmouth. (There are never more than 20 kids at the Treehouse during one day)

- 17 of those students walk/bike to school around 50% or more of the school year.
- 3 out of the 25 students have parents who work in town and have parking near their place of employment.
- Average park time is 2-5 minutes. We have students ready to go (coat, shoes, and backpack on waiting at the door)
- We have received zero complaints from the town, parents or local businesses about parking.

Current Drop-Off/Pick-Up Schedule (20 Students)			
Drop-off	7:30-8:45AM	8:45-9:05AM	
	8 Students	12 Students	
Pick-Up	12:00	3:00	Between 3:00-5:00
	10 Students	4 Students	6 Students
Projected Drop-off Pick-up for upstairs (10 additional Students)			
Drop-off	7:30-8:45AM	8:45-9:05AM	
	5 Students	5 Students	
Pick-up	12:00	3:00	Between 3:00-5:00
	4 Students	3 Students	3 Students
*at least 3 confirmed children will have younger siblings downstairs which is 3 less cars, this trend should continue moving forward.			





To whom it may concern,

My daughter goes to The Treehouse preschool on State street. I have not had any issues with parking for picking up or dropping off my daughter for preschool. I do not stayed park for more than 5 minutes since I am just picking up and dropping off.

-Meredith Mack

To Whom It May Concern,

Parking is a non-issue at the Treehouse School. Portsmouth is a city in which walking is part of life. My son loves walking with me from my business on Daniel Street over to the school. Whenever I need to drive, I never have a problem finding a spot on the street right in front of the school, and I have never received a ticket.

Sincerely,
Corissa McKallagat

To Whom it May Concern:

My child has been attending The Treehouse School of Portsmouth since its opening in the fall of 2017.

Our first year we had a schedule of three days a week, half days and now do three days a week from 8:45-3. In all of our time attending Treehouse (even a few weeks of summer camp), parking for drop off or pick up has never been an issue.

We can always find a spot well within a block of the school, and the drop off/pick up process is so streamlined, it's a matter of minutes (if that) before we are back to the car and out again.

Thanks for your time,

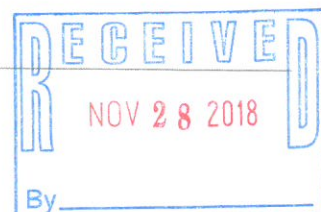
Taryn Herman
Treehouse School of Portsmouth Parent, 2017/2018

Kristin,

Parking near the Treehouse has not been an issue at any drop off off or pick up. I drop at 8:45am and State Street is almost empty at that time. There are many street spots near the school to park for our less than 5 minute drop off time.

At noon pickup it is equally as easy and even faster to pick up then drop off as the kids are all packed up and and waiting for their caretakers to pick them up. I always find a spot within one block of the school.

Best,
Erin Garcia de Parades



I have dropped off (morning) and picked up (mid day) Teddy a number of times, and in every drop off/pick up I have readily found parking spots very close to the school. I have never received a parking ticket and I have only been parked for less than 5 minutes each time.

-Brian Nereson

Hi Kristin,

I wanted to send a quick note to share my experience with drop offs at the Treehouse. First of all, like many other families that live in the area, the downtown location means that we walk to school whenever the weather allows us. We have also driven many times throughout the year including the summer and fall when the town is buzzing! Even during the busy times in town we've found parking immediately. We're in and out of drop off or pickup within 3-5 minutes.

Your potential expansion of the Treehouse School is fantastic news for the City of Portsmouth! Our child has learned so much about sidewalk safety & sidewalk etiquette in her time at the school. It would be such a shame if the school was unable to expand and allow for more young kids of Portsmouth to be able to gain the skills we've seen our child learn.

Best,

Jon Wentworth
291 South St.
Portsmouth, NH
617-913-9796

To Whom it may concern,

Whenever we drive to drop off or pick up Esen at school we easily find a spot within a block of school and never get a ticket as long as I pay the meter. We are usually in and out within 5 minutes or even better we pay for an hour and have lunch at a local business before heading home.

Thanks!
Andi Creeley

To Whom it may concern,

Parking has not been a issue at all when bringing Jewel to The Treehouse School or picking her up. I always find a parking space relatively nearby and am only parked for a couple of minutes. It has actually been a lot easier than I anticipated and I have never received a ticket. Thank you so much!

Jennifer Solomon

To Whom it may concern,



Our daughter attends the Treehouse School and we have never had any issue with parking. We pick her up various times throughout the day/week and have always found parking with ease and never received a ticket. We are excited about the potential for Treehouse to expand and give additional children the opportunity to attend a wonderful school that truly enriches our children and connects them with the community.

Janet Cooke

To Whom This May Concern,

My daughter is a student at the beloved Treehouse School. I can attest that parking has never been an issue during pick up or drop off hours. The teachers do an excellent job receiving the students and having them prepared to go home making pick up and drop off seamless, efficient, and fast. Additionally, most of the students come and leave at different times.

Sincerely,
Elizabeth Daly

To Whom It May Concern,

My son has been attending the Treehouse School and to my surprise and delight we have not had any issues with parking. We often walk or bike to school because it is one of the reasons we chose the downtown location of this wonderful school, but when we have driven parking has not been a problem.

Sincerely,
Erika Beer

Hi,

We have had no issues with parking for drop off or pick up at the Treehouse school. We have never gotten a ticket, and a parking spot is always available. We will park for 5 minutes for drop off and pick up.

Saroj Fleming

To Whom It May Concern,

I thought parking may be a problem prior to sending my child to the Treehouse School but I was wrong! In the morning there are always plenty of spots. In the afternoon for pick up, I never have any issues either. Kristin does an amazing job having the kids ready, and pick up takes less than a minute!

-Briana Spechuilli



To whom it may concern,

Our son attends Treehouse School and we have never had an issue with parking. There are always plenty of spots available and we are only ever parked there for a few minutes during pick up and drop off.

Kristyn Carvalho

Dear Kristin,

I am writing regarding your potential expansion and impact on parking.

Currently, our daughter Lydia is at Treehouse 3 days per week. Half the time we bike or walk to school. If we decide to drive, drop off is never a problem. Pick up is usually easy—maybe only once did we have to circle for a parking spot. Overall, parking is a non-issue.

But I would also add that the benefits of Treehouse being located downtown far outweigh any minor inconveniences. It has brought youth back to our town, bringing diversity to the downtown area. Treehouse allows children to feel comfortable exploring downtown Portsmouth. I hope you can continue to operate Treehouse out of your State St location.

Thanks again for all that you do for our community.

Pamela Esposito & Erik Stien

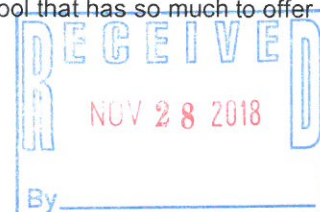
To whom it may concern,

My son Max has been attending Treehouse since the school first opened. We drop him off every day between 7:30-8:45 and pick him up every day between 4:00-5:00. We have never had a problem finding easy parking, we have never received a parking ticket, heard complaints from neighbors about parking, or had any difficulty with traffic in the area. In our opinion, increased capacity at Treehouse would present no detriment to parking or traffic in the area. Kristin runs an excellent school and more children should have the opportunity to experience it.

Michael Cantor

To whom it may concern,

My son has been attending The Treehouse School since September and absolutely loves the school. Living in Dover, I was concerned about the parking situation for drop off and pick up but it has never been an issue. I generally drop him off around 8:30, but sometimes a little earlier and sometimes a little later and pick up around 11:50 but again sometimes a little earlier and sometimes later. I have never had a parking ticket. The occasional time I've seen the Meter Guards they have been very kind when they see I'm picking up my son. I'm excited to hear that Kristin may be expanding her Preschool. It is a wonderful school that has so much to offer the community.



Kristyn Morse

Hi Kristin,

I'll tell you right now I have NEVER had an issue parking. As we speak right now, I'm in parking spot right in front of the Rosa and there's nobody in the two spots behind me. I think you should be fine.

Gotta go pay the meter :)

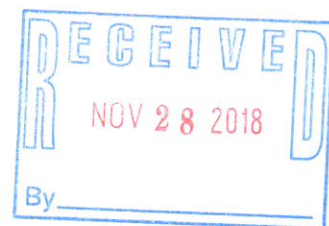
Thanks
Brad Solomon

To whom it may concern,


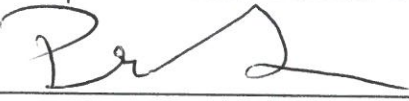


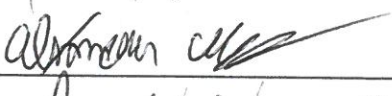
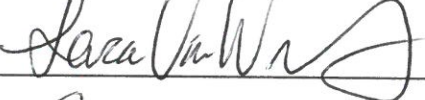


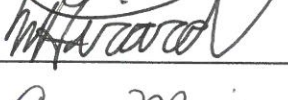
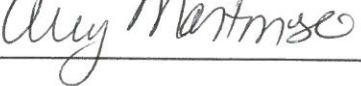
My daughter attended The Treehouse school last school year, the summer program, and continues to attend this year. We never have trouble finding parking. We are able to park close to the school and are in and out.

Thank you,

Spike Trueworthy
Portsmouth resident
Treehouse parent



By signing below I agree that the Treehouse School of Portsmouth's drop-off and pick-up schedules do not negatively affect my business or the availability of parking for my patrons or customers.

Business Name/Address	Signature
Pickwicks Mercantile	
Fezziwigs Food & Fountain	
RALEIGH WINE BAR	
BIRCH	
DOS Amigos	
Agave Mexican Bistro DOS	
Portsmouth Provisions / Groceries	
Buff & File Nail Bar	
CANINE CUPBOARD	
Redhead Studio	

RECEIVED
 NOV 28 2018
 By _____