

# McCordsville

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## INDIANA

### Board of Zoning Appeals Staff Report Meeting Date: April 12, 2023

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**PETITIONER:** Eric Burke

**PETITION:** BZA-23-009, Integrity Family Chiropractic

**REQUEST:** Petitioner requests approval of a Special Exception for a home occupation and a Development Standard Variance to allow a permanent ground sign in a residential zoning district.

**LOCATION:** The property is located at 5986 W CR 900N.

**ZONING:** The property is zoned R-1.

#### Zoning

North: Bay Creek at Geist  
South: R-1  
East: Bay Creek at Geist  
West: Bay Creek at Geist

#### Land Use

Common Area  
Single-family home  
Single-family home  
Institutional

#### **STAFF REVIEW:** Special Exception

The petitioner seeks to begin a chiropractic business in the existing structure, while also residing at the structure. This home-based business would involve customers coming to the home and therefore a Special Exception is required per our Zoning Ordinance.

#### Variance Request

The petition also seeks a variance to allow a permanent ground sign for the business. The Zoning Ordinance does not permit this, even for approved Special Exceptions, and therefore the need to seek the variance.

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#### **STAFF RECOMMENDATION:**

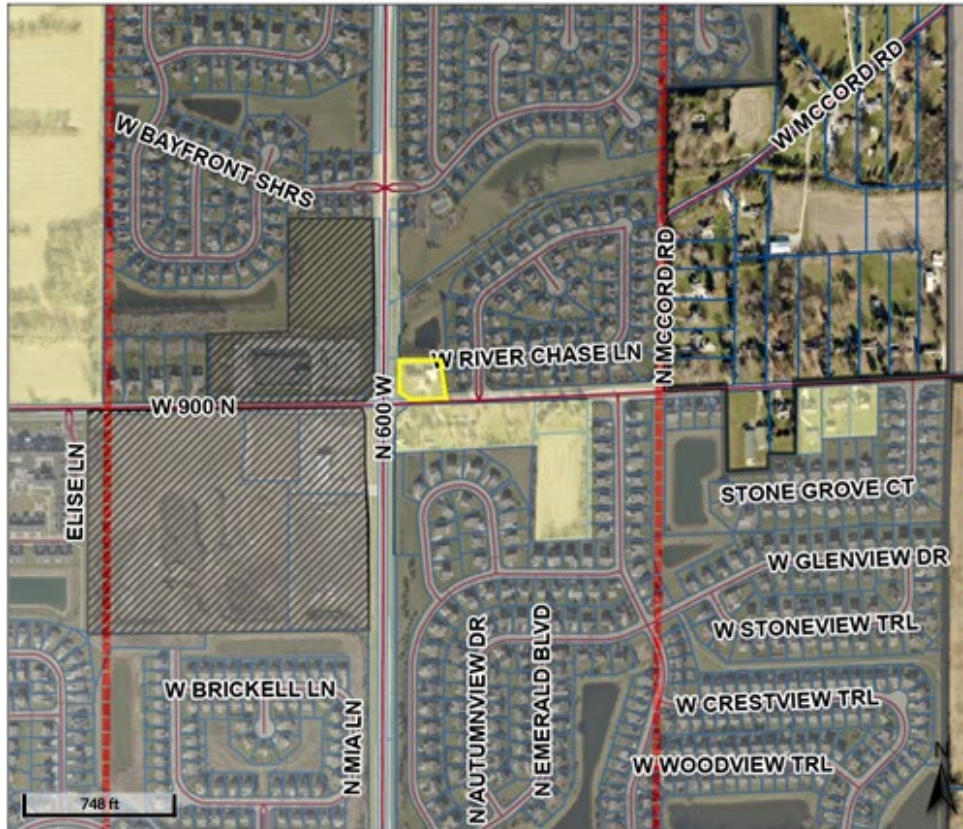
The Town's Zoning Ordinance includes a number of restrictions for home occupations, attached as Exhibit A. Those restrictions are intended to protect the residential character of the home and property. The petitioner has stated they can comply with those regulations, except for the signage. If this home

occupation were based within a neighborhood, staff would be very concerned by the idea of permanent commercial ground signage; however, this property is not within a neighborhood, and is located at a significant intersection in Town. Of the four (4) corners of this intersection, two (2) are already non-residential, and the Town anticipates the third corner transitioning to non-residential when it is sold.

Staff is in support of both the Special Exception and the variance request. This property is appropriate for commercial use, and the signage proposed is of high quality. Staff is working to develop some suggested conditions of approval, and we will have those prepared and communicated to the petitioner prior to the BZA meeting.

The BZA may include conditions of approval noted above, and if so, those conditions should be incorporated into the ballots. They may be amended, added to, or removed by the BZA. The petitioner also has the right to request them to be amended, added to, or removed until the time the BZA has made a motion on the conditions.

The BZA has four (4) options in considering this request; the Board may approve, approve with modifications, deny, or continue this petition.



#### Overview



#### Legend

- Commercial within PUDs**
- Bay Creek Commercial
  - Berkshire Commercial
  - Gateway Crossing Commercial
  - Old Town Commercial
  - Villages at Brookside Commercial
  - Corporate Limits
- Roads**
- I
  - S
  - U
  - <all other values>
  - Rights of Way
  - Parcels

Parcel ID	30-01-13-300-026.001-018	Alternate ID	30-01-13-300-026.001-018	Owner Address	Burke, Eric A & Brent Burke 5986 W 900 N McCordsville, IN 46055
Sec/Twp/Rng	n/a	Class	511 - 1 Family Dwell - Unplatted (0 to 9.99 Acres)		
Property	5986 W 900 N	Acreage	n/a		
Address	McCordsville				
District	MCCORDSVILLE TOWN				
Brief Tax Description	SW 13-17-5 1.362AC				
	(Note: Not to be used on legal documents)				

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 GEOSPATIAL

## Exhibit A

(A) *Purpose and intent.* The purpose of these home occupation standards is to establish minimum requirements for home-based businesses in order to protect the residential character of the McCordsville Community, preserve property values, and prevent the hazards to persons and property that can result from residential-commercial land use conflicts.

(B) *Applicability.* A home occupation may be permitted, subject to Board of Zoning Appeals approval of a special exception use, as an incidental use to any residential dwelling. In order to be considered a permitted home occupation, the use shall comply with the requirements of this section.

(C) *Activities.* The face-to-face wholesale/retail sale of stocked inventories is not permitted, except for incidental sales that do not exceed 25% of total home occupation sales. Mail-order/telephone/internet sales, as well as distribution of sold merchandise, is hereby permitted. Manufacturing activities are hereby expressly prohibited.

(D) *Effects of operation.* There shall be no equipment or process used in the home occupation that creates noise, vibration, glare, smoke, fumes, odors, or electrical interference that is detectable, without the aid of instruments, off the premises (as determined by the Administrative Officer, or his or her designee). There shall be no electrical or mechanical equipment utilized in the home occupation that will create any visual or audible interference with radio or television reception.

(E) *Owner/operator.* At least one person residing within the dwelling must be the primary operator of the home occupation.

(F) *Employees.* The home occupation may not involve the on-site employment or regular on-site gathering of any more than one person, other than those residing at the location of the home occupation.

(G) *Outdoor storage/display.* There shall be no exterior storage of products, equipment or materials that are related to the home occupation.

(H) *Business area.* The home occupation may be located within the dwelling and/or an accessory structure, but shall not exceed a total area of 500 square feet. The home occupation must utilize no more than 25% of the total floor area of the dwelling.

(I) *Structural alterations.* The home occupation must not require any structural or aesthetic alterations to the dwelling and/or accessory structure that changes its residential character as described below:

(1) *Dwelling appearance.* The dwelling and/or accessory structure shall not be altered in its appearance and the home occupation shall not be conducted in such a manner as to differentiate the dwelling from the residential character of the area by the use of colors, materials, construction, or lighting.

(2) *Entrances.* The home occupation shall not require any additional entrances to the dwelling and/or accessory structure.

(3) *Utility service.* The home occupation shall not require increasing or enhancing the size, capacity, or flow of the water, gas, waste treatment, or electrical systems beyond what is standard for a residence. Illegal discharge to the town's sanitary or stormwater sewers is expressly prohibited.

(4) *Interior alterations.* There shall be no alterations to the interior of the dwelling to accommodate the home occupation that would render the structure undesirable for residential use, as determined by the Administrative Officer, or his or her designee.

(J) *Parking and business vehicles.* The home occupation shall not involve on-site customers, employees, meetings, or other events that necessitate the installation of any off-street parking spaces in addition to those required of the dwelling unit by this chapter. In addition, the on-site storage of business vehicles shall meet the requirements of this chapter.

(K) *Deliveries.* The home occupation must not require the regular use of commercial vehicles for pickup and deliveries, other than those from the U.S. Postal Service or other small package carriers. For the purposes of this chapter a commercial vehicle is any vehicle in excess of 16,000 pounds.

(L) *Signs.* No signs of any type shall be used, other than those permitted in the applicable zoning district by §§ [154.140](#) through [154.148](#), Sign Standards, of this chapter.

(M) Home occupations which comply with the list below are permitted by a home occupation permit and are not required to receive a special exception from the BZA.

(1) Compliant with divisions (C) through (L) of this section, and as further restricted below:

- (2) No signage;
- (3) No on-site sales;
- (4) No operator/employee that is not an owner in the property;
- (5) No storage or parking of business vehicles; and
- (6) No customer visits.