



**Marion County
Board of County Commissioners**

Growth Services

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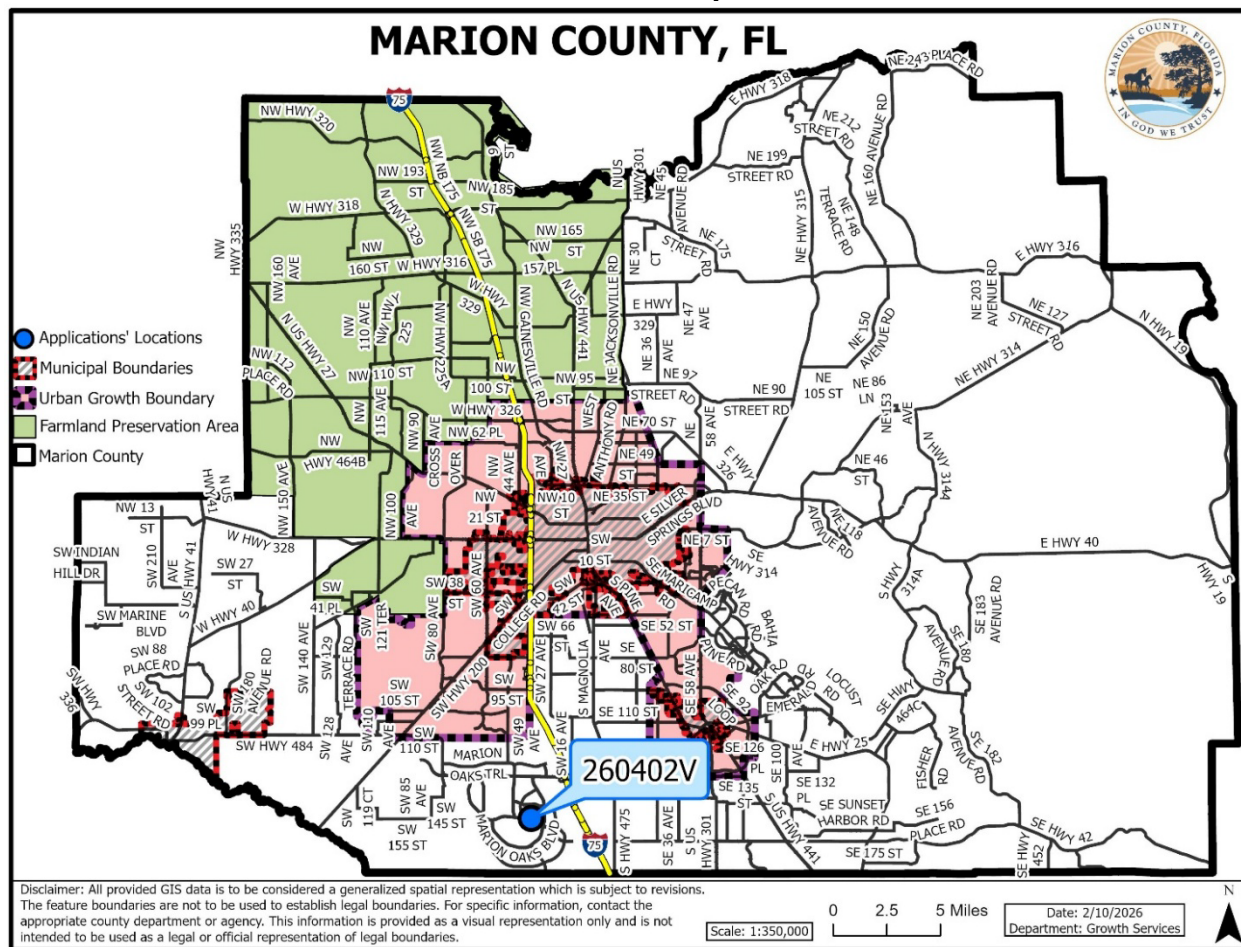
**ZONING SECTION STAFF REPORT
April 6, 2026
BOARD OF ADJUSTMENT PUBLIC HEARING**

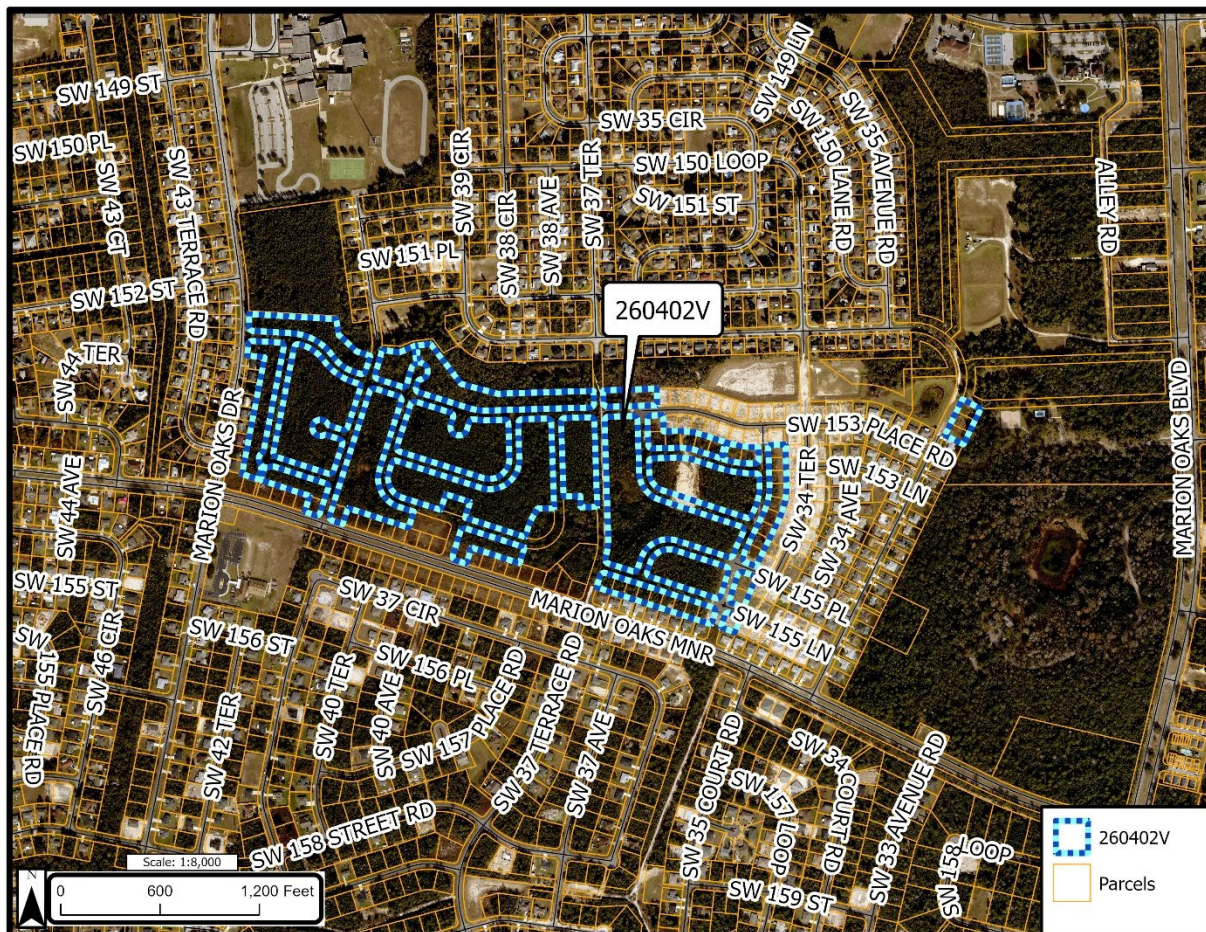
Case Number	260402V
Plan Number	Z Variance-000280-2026
Type of Case	Variance to reduce front setback from 25' to 20' for forty six (46) R-1 zoned parcels
Owner	Brite Properties of Florida LLC
Applicant	Klein & Klein, PLLC
Street Address	Multiple (See Attachment E)
Parcel Number	Multiple (See Attachment E)
Property Size	±54.44 acres
Future Land Use	Medium Density Residential
Zoning Classification	Single Family Dwelling (R-1)
Overlay Zone	Secondary Springs Protection Overlay Zone (SPOZ)
Project Planner	Erik Kramer
Related Case(s)	None

I. ITEM SUMMARY

This is a variance request filed by the applicant Klein & Klein PLLC, on behalf of owner Brite Properties of Florida, LLC from Land Development Code (LDC) Section 4.2.9.C. Section 4.2.9.C provides that in R-1 zoning, the minimum setbacks are twenty-five feet (25') from the front property line, twenty-five feet (25') from rear property line, and eight feet (8') from both side property lines when not connecting to centralized water and sewer. Section 4.2.9 also provides that required minimum setbacks can be reduced to twenty feet (20') for front and rear when connecting to centralized water and sewer. However, the previously adopted version of code specified for "For new residential subdivision development where central water and central sewer services are utilized", front and rear setbacks may be modified to twenty-feet (20'). The omission of language specifying new residential subdivision development in the currently adopted code is a scrivener's error. The applicant is requesting to have a front setback reduction of five feet (5') from the required twenty-five feet (25') to twenty feet (20'). Central water and sewer utilities are available in the vicinity, so the subject properties will be required to connect at development stage.

Figure 1
Location Map





IV. REQUEST STATEMENT

This application requests a variance from LDC Section 4.2.10.C. for the front setback from the required twenty-five feet (25') to twenty feet (20') for the subject parcels that have been purchased by *Brite Properties of Florida LLC*. Consistent with LDC Section 2.9.3.B., on March 5, 2026, a site visit was conducted by Growth Services Department staff.

ANALYSIS

LDC Section 2.9.4.E provides the Board of Adjustment shall not grant a variance unless the petition demonstrates compliance with six (6) criteria. The six (6) criteria and the staff's analysis of compliance with those criteria are provided below.

1. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which do not apply to other lands, structures, or buildings with the same zoning classification and land use area.

Applicant's Statement: Special conditions exist that are peculiar to this property because the lots/building envelope are unusually constrained in depth, so a five-foot increase in front setback materially reduces the functional buildable area in a way that does not affect deeper lots in the same zoning and land use area. This property's developability is further uniquely impacted by the County's project-specific history, including County Engineer approval of plans using a 20-foot front setback during due diligence and a post-closing staff position requiring 25 feet, which creates a discrete, site-specific setback conflict affecting this land and this development layout.

Staff: LDC Section 2.18.4.C states "all subdivision improvements shall be constructed in accordance with approved plans and shall conform to regulations and specifications in effect on the date of approval of the improvement plans."

At the time when the improvement plan (AR #29457), LDC Section 4.2.9.E allowed for "new" subdivisions, with centralized water and sewer connections to reduce the minimum front/rear setbacks from twenty-five feet (25') to twenty feet (20'). The subject parcels associated with this application comprise four hundred and eighty-four (484) lots that were originally platted in 1972 as part of Marion Oaks Unit Two. Staff's position on the interpretation of the LDC is that purchase of collective parcels within an already platted area, without replatting the area, does not constitute a "new" development.

Special conditions exist for Marion Oaks Unit Two subdivision as a whole. A variance approved on June 25 1984 granted a blanket five-foot (5') relief for the rear setback from twenty-five feet (25') to twenty feet (20') for a majority of R-1 zoned lots in Marion Oaks Unit Two, including all lots listed on this variance application. The same historic variance grants a seven-and-a-half (7.5) foot setback for interior lots, instead of R-1 zoning's eight (8) foot setback.

The minimum size of a typical platted lot in Marion Oaks Unit Two is seventy-five (75') wide and a hundred feet (100') deep, totaling an area of 7,500 square feet.

Based on the R-1 zoning front setback of twenty-five feet (25') for "old" development and setbacks allowed under the historic 1984 variances, the buildable area is 60'x55' or 3,300 square feet. Several residences on lots in Marion Oaks Unit Two have finished floor areas less than 3,300 square feet.

Based on LDC 4.2.9.E, which was in effect when the improvement plan was approved, new residential development in R-1 zoning that connects to central water and sewer utilities must conform to minimum typical lot size of 70 feet wide and 110 feet deep, totaling an area of 7,700 square feet. Based on the required minimum setbacks for this scenario, the buildable area is 54'x70' or 3,780 square feet.

Based on LDC 4.2.9.E, which was in effect when the improvement plan was approved, new residential development in R-1 zoning that does not connect to central water and sewer utilities must conform to minimum typical lot size of 85 feet wide and 117.65 feet deep, totaling an area of $\pm 10,000$ square feet. Based on the required minimum setbacks for this scenario, the buildable area is 69'x67.65' or 4,667.85 square feet.

2. The special conditions and circumstances do not result from the actions of the applicant.

Applicant's Statement: The special conditions do not result from the actions of the applicant because the lot depth limitations are inherent to the property and were not created by the applicant. The applicant submitted plans in good faith, obtained County Engineer approval reflecting a 20-foot front setback as a condition to closing, and closed in reliance on that County action, and the applicant did not create the County's later staff requirement that the front setback must be 25 feet. The applicant also did not cause the County's recent LDC revision issues or any internal disagreement regarding whether "existing development" language should have been included, and the variance request is being pursued only because staff is applying a 25-foot front setback to this site.

Staff: The Single-Family Dwelling (R-1) zoning designation allows for reduced setbacks when municipal water and sewer services are utilized in the development of "new" residential subdivisions. The special conditions are not because "Marion County subsequently took a position." There was no change to LDC requirements and Marion County does not view any part of Marion Oaks Unit Two as a "new" subdivision. These code requirements existed prior to the applicant purchasing the subject parcels.

3. Literal interpretation of the provisions of applicable regulations would deprive the applicant of rights commonly enjoyed by other properties with the same zoning classification and land use area under the terms of said regulations and would work unnecessary and undue hardship on the applicant.

Applicant's Statement: Applying the 25-foot front setback to this already depth-constrained property deprives the applicant of the practical ability to develop code-compliant residential homes with a reasonable building envelope, which is a right commonly enjoyed by other properties in the same zoning classification that have

sufficient depth to accommodate typical residential plans. The hardship is unnecessary and undue because the applicant purchased and structured the project based on a County approved 20-foot front setback and secured builder commitments tailored to that envelope, and the post-closing shift to 25 feet eliminates viable plan options and jeopardizes the project's ability to function as residential development on these lots. The hardship is not self-created and is instead the result of the County's post-approval application of a larger setback requirement to this specific site.

Staff: A twenty-foot (20') minimum front yard setback is allowed for new residential subdivisions that connect to centralized water and sewer systems. A twenty-five (25') front yard setback is required for existing subdivisions and new subdivisions that do not connect to centralized water and sewer systems. Marion Oaks Unit Two is an existing subdivision. Since Marion Oaks was created in the 1970's, thousands of homes have been developed within the development envelope of the existing twenty-five (25') front setback. The platted lots are platted as conforming lots under the Land Development Code.

4. The variance, if granted, is the minimum variance that will allow the reasonable use of the land, building, or structure.

Applicant's Statement: The requested variance is the minimum necessary because the applicant seeks only a five-foot reduction, from a 25-foot front setback to a 20-foot front setback, to preserve a workable building envelope on unusually shallow lots and to allow construction consistent with the County-approved plan set relied upon at closing. The applicant is not requesting any reduction below 20 feet and is not requesting variances for use, density, height, or other dimensional standards, and this limited adjustment is the smallest change that allows reasonable residential use of the property.

Staff: Many of the originally platted lots in Marion Oaks Unit 2 have been built out and meet the twenty-five (25') front yard setback requirement, including platted lots that received the 1984 blanket variance.

5. Granting the variance requested will not confer on the applicant any special privilege that is denied by these regulations to other lands, buildings, or structures in the same zoning classification and land use area.

Applicant's Statement: Granting the variance will not confer a special privilege because the applicant is not seeking any use not otherwise permitted and is not seeking to increase intensity, density, or development rights beyond what the zoning district allows. The applicant seeks only to maintain a reasonable residential building envelope on lots with atypically shallow depth and to proceed as designed under the same general setback condition the County previously approved for this site, rather than obtaining an advantage unavailable to other similarly zoned properties.

Staff: Other parcels of Marion Oaks Unit Two has been granted a variance for rear setback reduction from twenty-five feet (25') to twenty-feet (20') feet previously on selected parcels (see Attachment B). This blanket variance was granted to The Deltona Corporation in 1984 and was much more extensive what is being requested by the current applicants. Additionally, a variance request for a front setback reduction of twenty-five feet (25') to twenty feet (20') was granted to Aspire Glen Aire, LLC on April 7, 2025 for forty-seven (47) lots within Marion Oaks Unit Two.

6. The granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Applicant's Statement: Granting the variance will not be injurious to the neighborhood or detrimental to the public welfare because the project remains a residential development subject to all other applicable code requirements, and a five-foot front setback adjustment does not create a material adverse impact to traffic, utilities, drainage, emergency access, or neighborhood character. Approval supports the public interest by allowing the project to proceed under a predictable, functional building envelope reflected in the County-approved plans and avoids stalled development and failed lot deliveries that would negatively affect surrounding area stability.

Staff: Staff does not consider this a new development and if the variance is granted, it should be made clear that the approval is based on the request only and not the interpretation of the applicant about what constitutes a "new" or "old" development. If this variance is granted and is not subject to this interpretation, it does not appear that there will be any outcome that would be injurious to the neighborhood or otherwise detrimental to the public welfare.

V. LIST OF ATTACHMENTS

Attachment A – Initial Application Package

Attachment B – Blanket Variance Marion Oaks Unit Two from 1984

Attachment C – Granted Variance Document for 250403V

Attachment D – Site Photos

Attachment E – Parcel Exhibit