



FLORIDA DEPARTMENT OF Environmental Protection

CENTRAL DISTRICT OFFICE
3319 MAGUIRE BLVD, SUITE 232
ORLANDO FLORIDA 32803

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Noah Valenstein
Secretary

FINAL ORDER GRANTING VARIANCE

Petitioner:

Sebastian Inlet Marina, LLC
Attn: Thomas P. Kennedy, President
8685 US Highway 1
Sebastian, FL 32976

Project Information:

Variance No: OGC No. 1801349
Date of Issue: May 9, 2019
Expiration Date: May 8, 2019
County: Brevard
Project: Sebastian Inlet Marina

Agent:

Danna Smalls
DLS Environmental Services, Inc.
1901 SW Yellowtail Ave.
Port St. Lucie, FL 34953
danna@dlsenvironmentalservices.com

FINAL ORDER BY THE DEPARTMENT:

The Department of Environmental Protection (Department) hereby grants, to Sebastian Inlet Marina, LLC, a variance from the requirements of Rule 62-330.302(1)(c), Florida Administrative Code (F.A.C.), and from Section 10.2.5, Applicants Handbook, Volume I, to allow Sebastian Inlet Marina to expand the submerged lands lease boundary to include 14 additional mooring areas at the commercial marina facility. This variance also includes the authorization of an extension to the breakwater formerly permitted before the classification of the area as Class II Prohibited Shellfish Harvesting area.

This variance will temporarily allow the mooring of 14 additional slips around the perimeter of the existing docking structures and the operation of an existing breakwater surrounding the entry to the docking facility.

This variance shall only be valid for two (2) years from the date of issuance.

After reviewing the Petition for Variance, the Department concluded the Petitioner demonstrated that the hardship asserted as a basis for the need for a variance is peculiar to the affected property and not self-imposed and that the grant of this variance is consistent with the general intent and purpose of Chapter 373 and 403.201, Florida Statutes. Additionally, The Petitioner has demonstrated that because of the marina's location relative to Sebastian Inlet, it is the closest public marina, by 4.5 miles, to provide fueling. The marina is a primary location for governmental agencies, including FFWCC, US Customs &

Patrol, and the Coast Guard to fuel and moor vessels, as well as a transfer location for injured or deceased persons. The marina has offered a slip, free of charge, to the Brevard County Fire Department. This would allow for rapid response to all incidents within the area. Without a slip at this location, the nearest fire protection vessel would have to travel from Vero beach, approximately 16 miles south of the marina. Because the Petitioner has demonstrated that a hardship exists that is peculiar to the affected property and not self-imposed, and that the grant of this variance is consistent with the general intent and purpose of Chapter 373, Florida Statutes, the Department intends to grant the proposed variance. Construction may not begin until the Department issues a final order authorizing a variance from the above-referenced rules. The variance shall only be valid for 24 months from the date of issuance.

The Notice of Intent to Issue a Variance notified Sebastian Inlet Marina, LLC, of the Department's proposed agency action and advised them of their right to a hearing pursuant to Sections 120.569 and 120.57, F.S.

The Petitioner and interested parties having been advised of their rights under Chapter 120, F.S., and having failed or declined to file a Petition pursuant to Sections 120.569 and 120.57, F.S., are hereby deemed to have waived those rights. Acceptance of the variance constitutes notice and agreement that the Department will periodically review this variance for compliance, including site inspections where applicable, and may initiate enforcement action for violation of the conditions and requirements thereof. It is therefore:

ORDERED by the State of Florida, Department of Environmental Protection, that the Petition of the Sebastian Inlet Marina, LLC, requesting a variance be and is hereby granted, subject to the conditions specified by the Department in Permit No. 0244345-008.

The variance shall also be subject to the following conditions:

This variance shall only be valid for two (2) years from the date of issuance.

Any Party to this Order has the right to seek judicial review of the Order Pursuant to Section 120.68, F.S., by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of the Appellate Procedure, with the clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000; and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days from the date this Order is filed with the clerk of the Department.

DONE AND ORDERED this 13th day of May, 2019, in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Aaron Watkins, Director
Central District

FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to Section 120.52, Florida Statutes, with the designated
Department Clerk, receipt of which is hereby acknowledged.



5/13/2019

Deputy Clerk

Date

Copies furnished to:

Stephanie Gray, FDEP OGC

Kate Snure, FDEP

Charles Johnson, FDEP