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NJ Justices Revamp Test For Certain Zoning Variances

By **Carla Baranauckas**

Law360 (July 13, 2026, 7:29 PM EDT) -- The New Jersey Supreme Court revised a decades-old legal test governing use variances for "inherently beneficial" projects, ruling Monday that applicants must show that a proposed development will not substantially impair a municipality's zoning plan before a zoning board balances the project's public benefits against its downsides.

In a unanimous **ruling** in a zoning dispute over a proposed senior living facility, Justice Anne M. Patterson wrote that the four-part balancing test it established in 1992 in **Sica v. Board of Adjustment of the Township of Wall** no longer fully reflected the Municipal Land Use Law after the Legislature amended the statute in 1997.

The court modified the fourth step of the Sica framework and sent the matter back to the Appellate Division to apply the revised standard. The justices added wording to address the purpose of the zoning plan and ordinance.

"The board should determine whether the applicant has made a showing that the variance or other relief sought will not substantially impair the intent and the purpose of the zoning plan and zoning ordinance," the addition said in part.

The decision arose from a dispute over an application by Monarch Communities LLC to build a 165-unit senior living facility on an eight-acre property in Montville Township. The proposed development would include independent living, assisted living and memory care units, along with affordable housing.

It was undisputed that the proposed senior housing constituted an "inherently beneficial use" under the Municipal Land Use Law, a designation reserved for uses considered to fundamentally serve the public good.

But the Montville Township Zoning Board of Adjustment denied Monarch's application, concluding that the proposed project would undermine the township's zoning plan, which reserved the property for single-family residential development. The board also cited concerns about density, impervious coverage, drainage, traffic and parking.

A trial judge reversed the board's decision and remanded the matter for the board to impose conditions on the development. The Appellate Division affirmed that decision, concluding that the board had acted unreasonably in finding that the proposal's potential harm outweighed its benefits. The zoning board **appealed** to the supreme court.

In reversing those rulings, the Supreme Court emphasized that the Municipal Land Use Law generally favored zoning decisions made through ordinances adopted by governing bodies rather than through individual use variances granted by zoning boards. But variances remain necessary because zoning ordinances cannot anticipate every circumstance that may arise.

For projects involving inherently beneficial uses, the court in Sica established a four-step balancing framework intended to evaluate whether a variance should be granted. Under that test, boards identify the public interest served by the project, identify any detrimental effects, determine whether reasonable conditions could lessen those effects, then weigh the positive and negative criteria to decide whether the variance would substantially harm the public good.

Justice Patterson said the Sica framework did not incorporate the Municipal Land Use Law's second negative criterion, prompting the court to revise the test to reflect the Legislature's 1997 amendment that specified that even applicants seeking variances for inherently beneficial uses must satisfy both statutory negative criteria.

According to the court, the existing Sica framework no longer fully reflects that legislative directive.

The opinion revised the fourth step of the Sica analysis by requiring zoning boards first to determine whether an applicant has demonstrated that the requested variance will not substantially impair the municipality's zoning plan and zoning ordinance.

"If the applicant has not made such a showing, the variance may not be granted," the new language reads. "If the applicant has made such a showing, the board should then weigh the positive and negative criteria and determine whether, on balance, the grant of the variance would cause a substantial detriment to the public good."

The court emphasized that the new requirement did not impose the heightened proof standard established in the 1987 New Jersey Supreme Court ruling in *Medici v. BPR* for non-inherently-beneficial uses. Instead, applicants seeking variances for inherently beneficial uses must present evidence specifically analyzing how the proposed variance would affect the municipality's zoning plan and ordinance.

The court further observed that a municipality's previous denial of a variance application for the same property is not automatically controlling, although it may constitute an important consideration. It also encouraged municipalities to document in detail their planning decisions concerning inherently beneficial uses during required master plan reviews so that zoning boards have an updated planning record when evaluating variance applications.

The court did not rule on whether Monarch's application satisfied the revised standard. It reversed the Appellate Division's judgment and remanded the matter for review under the revised Sica framework.

Representatives for the parties did not respond to requests for comment Monday.

Monarch is represented by Antimo A. Del Vecchio and Daniel L. Steinhagen of Beattie Padovano LLC.

The Montville Zoning Board of Adjustment is represented by Kelly M. Carey and Bruce J. Ackerman of Pashman Stein Walder Hayden PC.

The case is Monarch Communities LLC v. Township of Montville Zoning Board of Adjustment et al., case number A-70-24, in the Supreme Court of New Jersey.

--Additional reporting by George Woolston. Editing by Adam LoBelia.