It is important that every board of adjustment adopt and follow a set of administrative rules. Adherence to such rules will allow the board to operate openly, fairly, and professionally. In this way, the board can provide itself with some protection against legal challenges on procedural grounds.

The following set of rules should be used only as an example. Please work closely with your city attorney or county attorney to formulate a set of administrative rules that is appropriate for your board.

In compliance with (Section 414.9 for cities; Section 335.12 for counties) and the (name of jurisdiction) zoning ordinance, which says that the board of adjustment will adopt rules to carry out the provisions of the zoning ordinance, the following rules of procedure are hereby adopted by the (name of jurisdiction) board of adjustment.

Section 1.0 Officers. The board of adjustment shall select from its membership a chairperson and vice chairperson who shall perform the usual duties pertaining to such offices.

1.1 Selection. At the first regular meeting in (January/July) of each year the board will pick its officers from its membership. All officers are eligible for re-election.

1.2 Tenure. The chairperson and vice chairperson shall take office immediately following their election and shall hold office for a term of one year or until their successors are selected and assume office.

1.3 Duties. The chairperson shall preside at all meetings and hearings of the board, shall decide all points of order or procedure, and shall appoint any committees that may be found necessary. The vice chairperson shall assume the duties of the chairperson in the absence of the chairperson.

1.4 Secretary. The secretary will be appointed by the (city council/board of supervisors) and may be a member of the board, an employee of the board, or a regular employee of the (city/county). The secretary shall conduct all official correspondence subject to these rules of procedure at the direction of the board, shall send out all notices required by these rules of procedure, keep the minutes of the board’s proceedings, and keep a file on each case that comes before the board. For all appeals and applications, the secretary shall issue the proper forms; see that
information maps and plats are compiled and ready for board’s review; notify any property owner and other interested parties by mail of the time and place of the hearing; and any other duties as determined by the board.

Section 2.0 Meetings. The annual meeting of the board will take place at the first regular meeting in (January/July) of each year. Regular meetings of the board of adjustment shall be at (7:00 p.m.) on the (second Tuesday) of each month unless no cases are pending in which case no meeting shall be held. The secretary shall give each member of the board (72 hours’) notice of such meeting by mail.

2.1 Special meetings. Special meetings may be called by the chairperson or at the request of three members of the board of adjustment. Notice of the special meeting shall be given by the secretary to the members of the board at least (48 hours) prior to such meeting and shall state the purpose and time of the meeting.

2.2 Quorum. A quorum of the board shall consist of (three) members.

2.3 Public. All regular, special, and subcommittee meetings; public hearings; records; and accounts shall be open to the public.

2.4 Order of business. The secretary shall prepare an agenda for each meeting and send it to each board member as a part of the notification process (72 hours prior). The order of business shall be as follows:

a) Roll call
b) Reading the minutes of previous meeting
c) Communications
d) Report of committees
e) Unfinished business
f) New business
g) Adjournment

2.5 Voting. The concurring vote of three members of the board is required to reach a decision (no matter how many board members are present). Voting will be by roll call and will be recorded by yeas and nays. All members of the board, including the chairperson, are required to cast a vote for each motion. Minutes will show members absent for each vote. A member may abstain if he or she feels there is a conflict of interest, particularly if the conflict is of a financial nature. If a member elects to abstain from voting, he or she is required to state the reason for his or her abstention at the time of voting.

2.6 Unfinished business. When all appeals or applications cannot be disposed of on the day set (due to length of meeting or extenuating circumstances), the board may adjourn from day to day or until the next regular meeting as the board may decide.

2.7 Board action. The board may not vote on an appeal or application until all required information has been set forth on the forms and until the hearing has been conducted.

2.8 Parliamentary procedure. Roberts Rules of Order, Revised, will govern the board meetings.

Section 3.0 Cases to be decided by the board. The following cases shall be made before the board of adjustment on forms provided by the board secretary:

a) Appeals, when it is alleged there is error in any order, requirement, decision, or determination made by the (zoning administrators) in the enforcement of the zoning ordinance.

b) Special exceptions to the terms of the zoning ordinance upon which the board is required to act under the ordinance.
c) Variances to a zoning district requirement where there are unusual conditions or circumstances which cause a hardship when the provisions of zoning are strictly applied.

Section 4.0 Procedure for hearing cases. The following rules will apply to all appeals or applications before the board.

4.1 Appeals to the board may be taken by any person, group, or by any officer or department of the (city/county) affected by any decision of the (zoning administrator) and by applicants for a special exception or variance.

4.2 The (zoning administrator) shall tell the applicant or interested party why the (zoning or building) permit was denied or why the application is necessary. He or she shall inform the applicant or interested party of the right to apply or appeal to the board and that it be made within (10) days. Such appeal shall be filed with the (zoning administrator) on the forms provided by the board of adjustment. The (zoning administrator) will transmit the completed appeal form along with all papers constituting the record upon which the board shall act.

4.3 The applicant shall complete the required forms, providing all information requested by the form and any additional information as requested by the (zoning administrator).

4.4 The secretary of the board shall reject any such application or appeal that is not filed within (10) days of the (zoning administrator’s) decision. Also, the secretary shall reject any such application or appeal unless same are made on prescribed forms properly filled out, with all required data attached.

4.5 An application or appeal filed according to the above procedure shall be given a case number within (five working) days from the date filed. Applications or appeals will be assigned in the order in which they are received. Cases assigned to the board less than (10) days prior to the regular meeting will automatically be set for hearing on the subsequent regular meeting day.

4.6 The secretary of the board shall notify the parties of interest (property owners of record within 200 feet of the applicant’s lot lines) by mail of the time, place, and purpose of the public hearing, and give (four but not more than 20 days) public notice in a newspaper of general circulation.

4.7 Hearings shall be held by the board of adjustment at the (community hall) and open to the public.

4.8 At the time of the public hearing the applicant may appear in his or her own behalf or be represented by agent or counsel. In the absence of any personal appearance on behalf of the applicant, the board will proceed to dispose of the matter on the forms and information provided before.

4.9 The order of the hearing shall be as follows:

a) The applicant’s or appellant’s side of the case
b) (Zoning administrator’s) side of the case
c) Interested property owners’ opinions
d) Applicant’s rebuttal

4.10 After the hearing, the board shall deliberate the case. The board may ask its attorney for comments.

4.11 The applicant or appellant may withdraw his or her application or appeal at any time prior to the decision by the board of adjustment.
4.12 Final decision of any application or appeal shall be made in the form of a resolution by anyone on the board of adjustment. The resolution may affirm, modify, or reverse the refusal of a permit by the decision of the (zoning administrator). In the case of an application for variance or special exception, the resolution shall set forth that the application is granted or denied and said resolution shall specifically set forth what variances or special uses are permitted and what conditions, if any, shall be complied with.

4.13 Within (fifteen) days after the hearing the board shall notify the parties of interest and the (zoning administrator) of its decision.

4.14 A rehearing of any decision of the board of adjustment may be made if the following occur: the motion to reconsider is made by a member of the board and carried by not less than (four) affirmative votes; new evidence is submitted that could not reasonably have been presented at the original meeting; at least 90 days have elapsed since the resolution was defeated; and the case is put on the agenda for a rehearing.

Section 5.0 Records. The secretary shall keep books showing the status of all cases and minutes as part of the records of the board of adjustment. In addition, the secretary shall keep a file of all cases including forms and additional information as a part of the legal records.

5.1 All records of the board shall be public.

5.2 The secretary shall publish the minutes of all meetings in a newspaper of general circulation within (fifteen) days of the meeting.

Section 6.0 Amendments A majority vote of all the members of the board shall be necessary to amend these procedural rules. Such proposed amendments shall be presented in writing at any regular meeting of the board of adjustment.

Section 7.0 Informal Advice. The board will not consider a request (informal or not) for advice on theoretical or actual situations that potentially may later come before the board as an appeal or application.