

NOTICE OF MEETING

NOTICE IS HEREBY GIVEN THAT THE BOARD OF ADJUSTMENT WILL MEET IN A REGULAR SESSION IN THE SENATOR FLORENCE SHAPIRO COUNCIL CHAMBERS LOCATED AT, 1520 AVENUE K, PLANO, TEXAS AT 3:00 P.M. TUESDAY, May 24, 2016.

The Board of Adjustment may convene into Executive Session pursuant to Section 551.071 of the Texas Government Code to consult with its attorney regarding posted items in the regular meeting.

PUBLIC COMMENTS:

1. The Board of Adjustment will hear comments of public interest. Time restraints may be directed by the Chair of the Board of Adjustment. Specific factual information, explanation of current policy, or clarification of Board of Adjustment authority may be made in response to an inquiry. Any other discussion or decision must be limited to a proposal to place the item on a future agenda.

APPROVAL OF MINUTES:

2. May 10, 2016 meeting

ZONING APPEAL REQUEST:

3. **APPEAL # 16-12Z 4451 Birdsong Lane:** A request to vary from Subsection 9.600 (.3) of Division 2, Article 9, Zoning Ordinance No. 2015-5-2 as amended, to allow an existing single family residence to encroach 3.4 feet into the required 30 foot platted front building line setback, for a reduced 26.6 foot front setback. This appeal is requested and will be represented by property owner Wayne Visalga.

OTHER:

4. Items for future Agenda.

I certify that the above notice of meeting was posted on
the bulletin board in the Municipal Building, 1520 Avenue K,
Plano, Texas on the 12th day of May
20 16, at 5:00 o'clock p.m.

Alicia S. Sypko
Asst. City Secretary



Council Liaisons: Deputy Mayor Pro Tem Ben Harris and Council Member Rick Grady

Municipal Center is wheelchair accessible. A sloped curb entry is available at the main entrance facing Municipal/L Ave., with specially marked parking spaces nearby. Access and special parking are also available on the north side of the building. The Senator Florence Shapiro Council Chambers are located on the first floor. Requests for sign interpreters or special services must be received forty-eight (48) hours prior to the meeting time by calling the Building Inspection Department at 972-941-7140

**Board of Adjustment
May 10, 2016**

Board Members Present

Carolyn Kalchthaler, Chairperson
Peter Krause
Robert Miller
Jim Norton
Ban Alali
William Gibson
Enghlab Eftekhari
Joyce Beach
Phil Head, Alternate, (Not seated)

Absent

Phillip Pierceall, Alternate

Staff

Victoria Huynh, Deputy City Attorney
Selso Mata, Building Official
Patti Hoffer, Code Compliance Rep
Diana Casady, Sr. Administrative Assistant

Chairperson Carolyn Kalchthaler called the meeting to order at 3:00 p.m., Tuesday, May 10, 2016 in the Senator Florence Shapiro Council Chambers of the Municipal Center. A quorum was present and notice of the meeting had been posted for the time and manner required by law. The following matters were discussed.

Chairperson Kalchthaler admitted all documents and testimony given into the official Board of Adjustment record.

1. Public comments: There was no public comment.

2. Approval of Minutes from April 12, 2016

Board Member Bill Gibson made the motion to approve the minutes from April 12, 2016, Jim Norton seconded the motion. The Board voted 8/0 in favor of approving the minutes from April 12, 2016.

3. APPEAL #16-07Z 3120 Golden Springs Drive: A request to vary from Subsection 9.700 (.3) of Division 2, Article 9, Zoning Ordinance No. 2015-5-2 as amended, to allow encroachment of an attached, screened, covered patio into the required 15 feet sideyard buildline by 6.5 feet. Tabled at the April 12, 2016 meeting.

Board Member Jim Norton made the motion to remove the agenda item from the table. Enghlab Eftekhari seconded the motion. The Board voted 8/0 to remove the agenda item from the table.

Patti Hoffer, Code Compliance Representative, gave a presentation on the variance request and answered questions from the Board.

Rob Baldwin, representing homeowner Nikhil Kapadia, explained the history of the project and how it was built without a permit. He explained that the lot is unique because there are right of ways on all four sides of the property and that increases the setbacks, and makes this property almost like an island. The structure is a covered patio that is open without heating or air conditioning. Mr. Baldwin testified on the four points for granting a variance request and answered questions from the Board.

Mr. Kapadia testified that he did not know he needed to get permission from the Homeowner's Association before he built the structure. He assumed the Contractor would take care of the permits. As soon as he found out about no permit being pulled, he made contact with the City. He is trying to bring it into compliance by getting a variance for the structure. This project was built before a permit was even applied for. The contractor did not try to get the permit until Mr. Kapadia asked about it after he was contacted by the Homeowner's Association. The contractor tried to apply for the permit with the City, and it was denied. The contractor only told the homeowner there was a problem, but never told him what the problem was. Mr. Kapadia answered questions from the Board.

Selso Mata asked the homeowner if there was a door onto the patio area, the homeowner testified that he covered two kitchen windows when the structure was built and there is a door that opens to the porch.

Chairperson Kalchthaler closed the floor to public comment, and discussion was confined to the Board.

After discussion, Board Member Jim Norton made the motion to approve Appeal #16-07Z with the following conditions: 1) the structure must be open air and can never be enclosed 2) no air conditioning, heating, or plumbing will ever be installed for the structure. Ban Alali seconded the motion. The Board voted 7/1 in favor of the motion with Mr. Eftekhari casting the only no vote. The variance request was approved.

8. Items for future Agenda.

One Zoning Case for May 24, 2016

Meeting adjourned at 3:50 p.m.

Carolyn Kalchthaler, Chairperson



ZONING APPEAL TO THE BOARD OF ADJUSTMENT

APPEAL #: 16-12Z

\$ 75-RESIDENTIAL (HOMESTEAD ENCROACHMENTS ON HOMES BUILT PRIOR TO MAY 1987)
\$150-RESIDENTIAL (HOMESTEAD)
\$265-RESIDENTIAL/COMMERCIAL

PLEASE TYPE OR PRINT USING BLACK INK

APPEAL LOCATION:

Street Address: 4451 Birdsong Lane, Plano, TX 75093 Zoning District: _____

Lot Number: 14 Block: D Addition: _____

TO THE HONORABLE BOARD OF ADJUSTMENT:

<u>Wayne Visalga</u>		<u>972-985-9108</u>	
<small>(Applicant)</small>		<small>(Applicant's Phone Number)</small>	
<u>4451 Birdsong Lane</u>	<u>Plano</u>	<u>TX</u>	<u>75093</u>
<small>(Applicant's Street Address)</small>	<small>City</small>	<small>State</small>	<small>Zip</small>

In accordance with the provisions of Section 6-204, et seq. of the City of Plano Zoning Ordinance, appeal is now made to the Honorable Board of Adjustment to grant the following variance request. (Please be specific in request):

We request a variance regarding the 30' building line. The building line changes from 25' to 30' at previous property (lot 13).

The front of our house is 3.4' within the 30' building line; requiring this request for variance.

In order to make a finding of hardship and to grant a variance, the Board of Adjustment must determine that all of the following conditions are met. State how your request meets these conditions. Please note that the stated hardship shall not be financial nor self-induced.

a. The requested variance does not violate the intent of the ordinance or its amendments:
The builder positioned the front of the house at 26.6' from the reference line.

A 1988 property survey incorrectly shows a 25' building line. We were not aware of any ordinance violation until recently.
There have not been any physical changes to the front of our house.

b. Special conditions of restricted area, shape, topography or physical features exist that are peculiar to the subject parcel of land and are not applicable to other parcels of land in the same zoning district:

Our house is located on the apex of a curved street.
The building line changes from 25' to 30' at the previous property (lot 13).

c. The hardship is in no way the result of the applicant's own actions:
The house was built in 1983 by Marlo Homes, Inc. We purchased the house after construction was completed.

There have not been any physical changes to the front of our house.

d. The interpretation of the provisions of this ordinance or its amendments would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district that comply with the same provisions:

Our house is in violation of the 30' building line ordinance.
We are not able to sell our home unless a 3.4' building line variance is granted.

e. How is the property going to be used?
This property is our primary residence.



ZONING APPEAL TO THE BOARD OF ADJUSTMENT

f. Is the denial of the variance going to cause a substantial burden on religious activities of the property owner/user?
Circle one: Yes / No (If Yes, see question (g) below)

g. If yes, please explain how the denial of the variance will cause a burden on religious activities of the property owner/user?

The undersigned officer(s) and/or agent(s) of the property owner(s) are the properly authorized officials and by signing below have the necessary authority to execute this application on behalf of applicant hereto.

Name Address City State Zip Date

PLEASE CHECK ONE:

I will represent this variance request at the Board meeting

I will not be able to represent this variance at the Board meeting. My authorized representative who will represent this variance before the Board of Adjustment is:

Name Street Address City State Zip

NOTE TO APPLICANT:

A notice of meeting will be sent only to the applicant, or to the authorized representative, if one is designated. If the variance is denied, it may be two years before the variance can be reheard. The decision of the Board of Adjustment shall be final on all sign cases. Refer to The City of Plano Zoning Ordinance: Article 6, Section 6-209(3) to appeal the decision of the Board regarding a zoning case. WV (initial)

I hereby certify that the above statements are true and correct to the best of my knowledge. I acknowledge that I may withdraw my application prior to it being presented to the Board. To resubmit the application I understand I will need to submit another application fee. WV (initial)

Wayne Visalga
Applicant's Signature
Wayne Visalga
Please Print Name

STATE OF TEXAS
COUNTY OF COLLIN

Subscribed and sworn to before me this 2 day of MAY, 2016

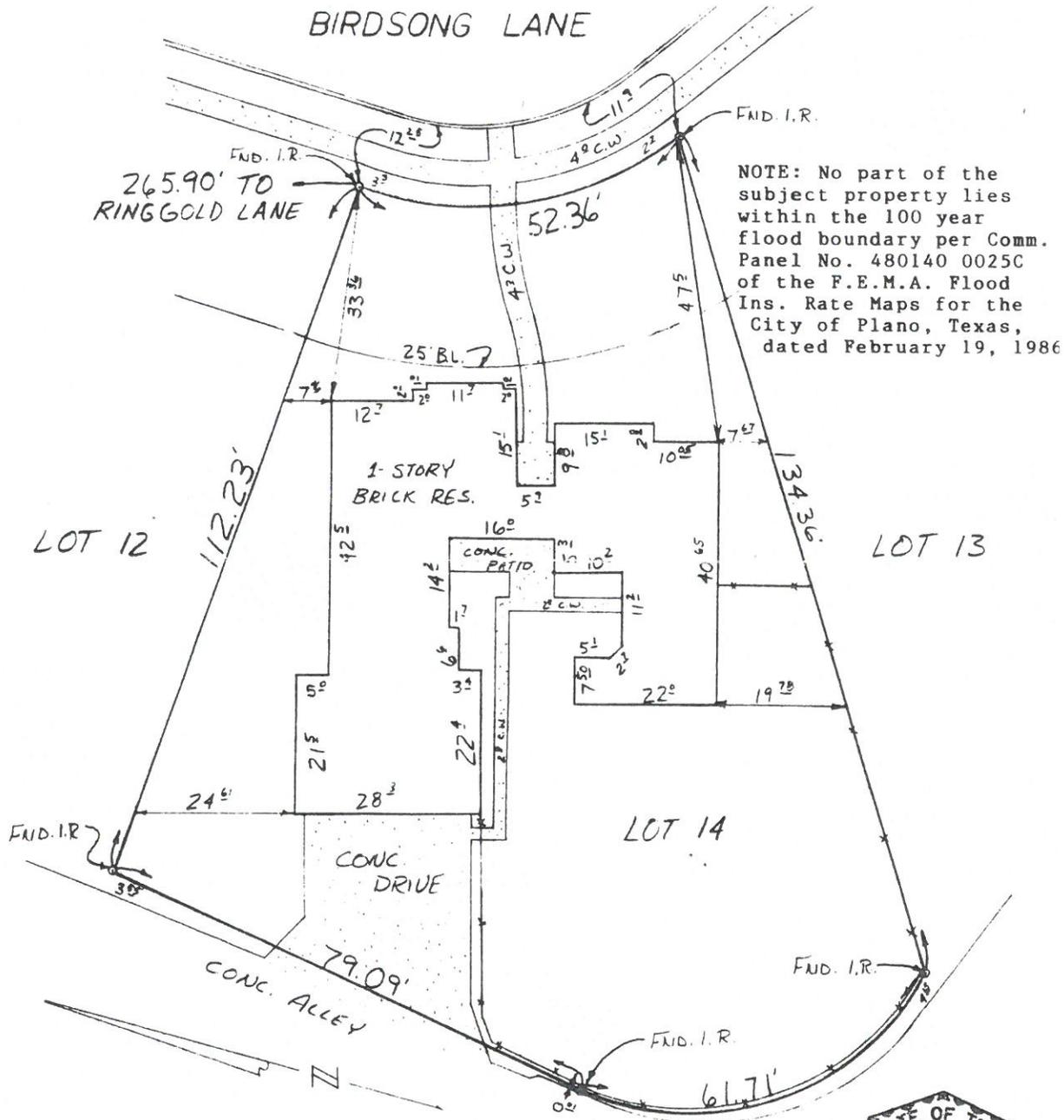
Michele Austin
Notary Public



My commission expires: 08-18-2016

SURVEY PLAT

Property located at No. 4451 Birdsong Lane, in the City of Plano, Texas, described as follows: Lot No. 14
 Block No. D of Replat of Preston Cove Phase I
 Addition, an addition to the City of Plano, Texas, according to the revised map recorded in Volume B at page 250 of the Map Records of Collin County, Texas



CERTIFICATION

On the basis of my knowledge, information and belief, I certify to

Dallas Title Company

that as a result of a survey made on the ground to the normal standard of care of Professional Land Surveyors practicing in the State of Texas, I find the plat hereon is a true, correct, and accurate representation of the property as determined by survey, the lines and dimensions of said property being as indicated by the plat; the size, location, and type of buildings and improvements are as shown, all improvements being within the boundaries of the property, set back from property lines the distances indicated, and that the distance from the nearest intersecting street, or road is as shown on said plat.

THERE ARE NO ENCROACHMENTS OR PROTRUSIONS EXCEPT.

J. E. Bemenderfer, Jr.

Scale: 1"=20'

April 21, 1988



APPEAL SUMMARY #16-12Z

APPLICANT: Property owner Wayne Visalga

ADDRESS: 4451 Birdsong Lane (Lot 14, Block D)

ZONING: Single Family 7 (SF7)

APPLICANT REQUEST: The applicant is requesting to vary from Subsection 9.600 (.3) of Division 2, Article 9, Zoning Ordinance No. 2015-5-2 as amended, to allow an existing single family residence to encroach 3.4 feet into the required 30 foot platted front building line setback, for a reduced 26.6 foot front setback.

ORDINANCE REQUIREMENTS:

Subsection 9.600 (.3) states minimum front yard setback is 30 feet.

STAFF FINDINGS:

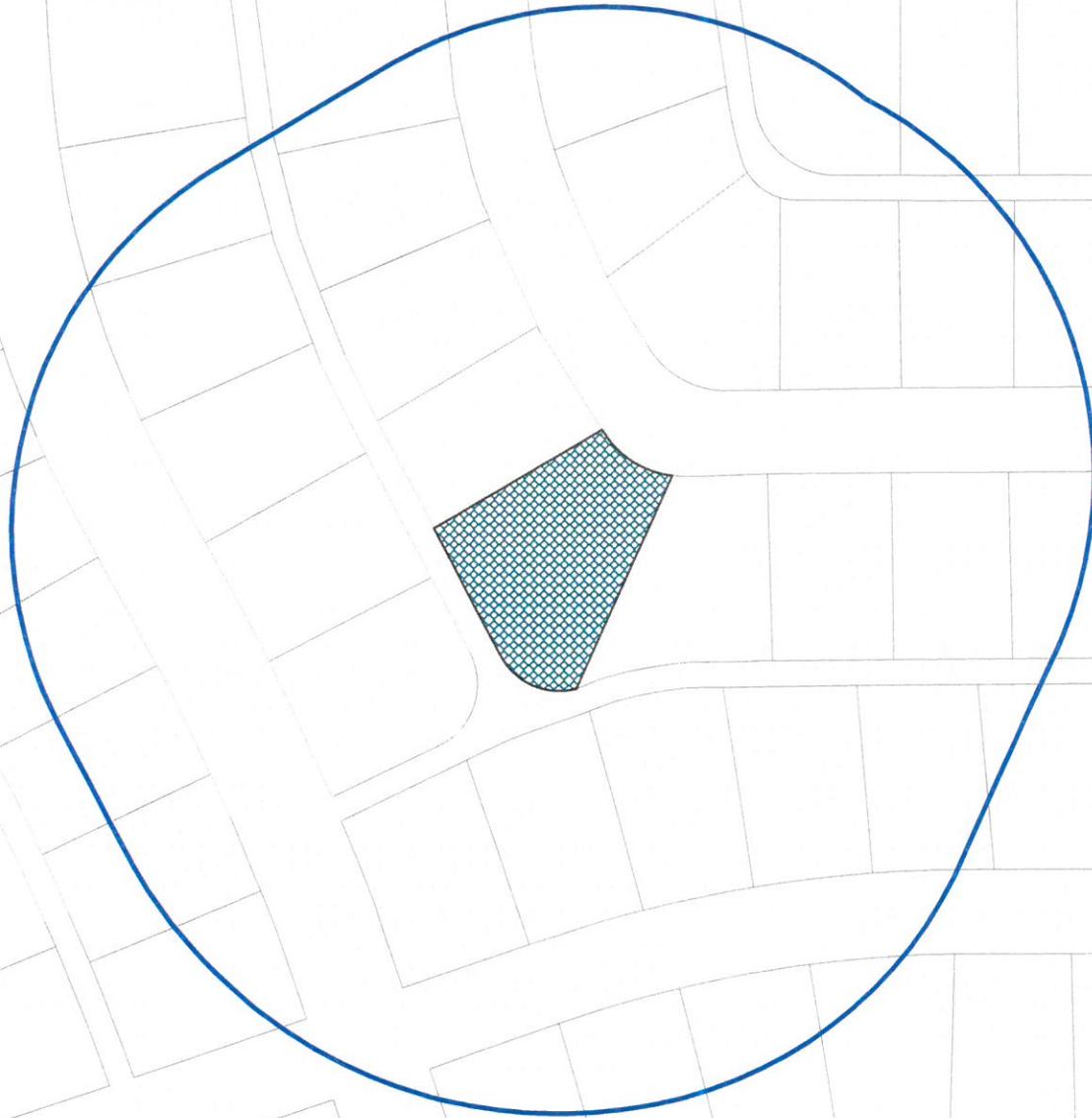
This property is located in the Preston Cove subdivision north of West Park Boulevard and east of Ohio Drive.

The existing home was built in 1982 and purchased by the current owners in 1983. The construction of the home was incorrectly approved by city staff with a 25' buildline. There are 24 homes on the same street with a 25' front buildline. The front buildline changes from 25' to 30' at lot 13. The home is encroaching 3.4' into the platted 30' front buildline, resulting in a 26.6' setback.

Per the applicant request, there have not been changes to the front of the home since it was built. The current homeowners were not aware of the discrepancy until they had a new survey done. They are in the process of selling the home, but are required to have the variance in place prior to sale.

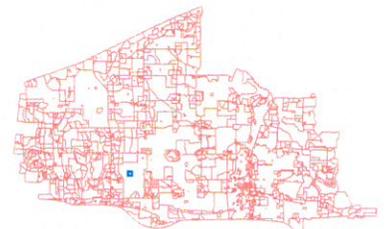
RINGGOLD LN

BIRDSO



Board of Adjustment

Appeal #: 16-12Z
Address: 4451 BIRDSONG LANE
Zoning: SINGLE FAMILY 7 (SF7)



○ 250' Notification Buffer



RYAN PAUL F ETUX
4444 EARLY MORN DR
PLANO, TX 75093-3718

KINSER WAYLAND ARTT &
SUSAN WARD KINSER
4444 RINGGOLD LN
PLANO, TX 75093-3767

FAITH DAVID W
4449 EARLY MORN DR
PLANO, TX 75093-3719

NELSON CATHY SUE
2313 DECATOR DR
PLANO, TX 75093-3904

WILSON CAROLYN R
2400 DECATOR DR
PLANO, TX 75093-3920

SIMS ERIC
4459 BIRDSONG LN
PLANO, TX 75093-3706

WILLINGHAM JANA KAY
4452 EARLY MORN DR
PLANO, TX 75093-3718

CHUAN JULIE
YAO HWA CHUAN ESTATE OF
4440 BIRDSONG LN
PLANO, TX 75093-3762

MCGONNELL WILLIAM J
4449 BIRDSONG LN
PLANO, TX 75093-3761

SLATER JANE ETAL
4457 EARLY MORN DR
PLANO, TX 75093-3719

NAMDARKHAN MARJANEH
5907 PARK LN
DALLAS, TX 75225-1636

CHAN MEI KUEN ESTHER & WAI SUM
2408 DECATOR DR
PLANO, TX 75093-3920

HOLLAND LYNN R &
CLARK JAMES F
2305 DECATOR DR
PLANO, TX 75093-3904

VISALGA WAYNE W & KATHERINE A
4451 BIRDSONG LN
PLANO, TX 75093-3706





ROFFINO BRIAN J &
MARK W ELLIS
4437 BIRDSONG LN
PLANO, TX 75093-3761

SPENCER LASHONDA
4440 EARLY MORN DR
PLANO, TX 75093-3718

HOFFMAN MELINDA
4456 BIRDSONG LN
PLANO, TX 75093-3705

ROSS SHIRLEY
4445 EARLY MORN DR
PLANO, TX 75093-3719

SMITH CHRISTOPHER BRIAN &
SMITH WILLIAM LEON REVOC TR
2401 DECATOR DR
PLANO, TX 75093-3921

ERIKSSON DAVID SCOTT &
ERIKSSON BRENDA KAY
2316 DECATOR DR
PLANO, TX 75093-3903

BRAVO LESLEY ROBIN & NANDER ABEL
4444 BIRDSONG LN
PLANO, TX 75093-3762

MEYER MATTHEW D &
MEYER ANDREA D
4463 BIRDSONG LN
PLANO, TX 75093-3706

GREEN BILLY J
4448 EARLY MORN DR
PLANO, TX 75093-3718

LANGDON PETER L & LYNN S
4440 RINGGOLD LN
PLANO, TX 75093-3767

RICCIARDELLI THOMAS P & LAUREL ANN
4445 BIRDSONG LN
PLANO, TX 75093-3761

HSIEH MINLUN &
CHINYUAN HSIEH
3212 HILLSDALE CT
PLANO, TX 75093-3449

BRANSCOME DANNY L & SYDNEY G
2404 DECATOR DR
PLANO, TX 75093-3920

MOGHADDAMFAR JHUBIN &
JENNIE W MOGHADDAMFAR
2309 DECATOR DR
PLANO, TX 75093-3904





RUIZ DENNISSE
4455 BIRDSONG LN
PLANO, TX 75093-3706

ZARBAUGH JAMES S &
HEATHER L ZARBAUGH
4436 BIRDSONG LN
PLANO, TX 75093-3762

ROACH CRYSTAL G
4452 BIRDSONG LN
PLANO, TX 75093-3705

OLIVER TOM & WILMA
2312 DECATOR DR
PLANO, TX 75093-3903

BUDAGAVI MADHUKAR &
SHVETHA RAO BAPU
8025 MINERAL SPRINGS CT
PLANO, TX 75025-4353

VATANKHAH MINA
2405 DECATOR DR
PLANO, TX 75093-3921

JRR PARKVIEW II LTD
5929 NEWGATE LN
PLANO, TX 75093-4343

WILSON DAVID
1505 AMBLESIDE LN
RICHARDSON, TX 75082-3041

SCOVIC THOMAS & KATHERINE
4448 BIRDSONG LN
PLANO, TX 75093-3762

SNOW WESLEY D & PAMELA J
4441 BIRDSONG LN
PLANO, TX 75093-3761

