

Cedarburg Taxpayers Fund Defense as Gauthier Biomedical Owners Challenge Unanimous Denials

Cedarburg taxpayers will fund defense as Mike and Stacy Gauthier file Case 2026CV000186 challenging unanimous denials of their 13.2-acre private pond.

GRAFTON, WI, UNITED STATES, May 7, 2026 /EINPresswire.com/ -- The Town's Plan Commission voted unanimously on December 17, 2025 to recommend denial of the project's three required approvals, a rezoning, a Certified Survey Map, and a pond permit. Six weeks later, the Town Board denied all three on a 5-0 vote on February 4, 2026.



The screenshot shows the Wisconsin Circuit Court Access portal for Case Number 2026CV000186. The case title is "Michael Gauthier et al vs. Town of Cedarburg et al". The filing date is 04-29-2026, and the case type is Civil. The responsible official is Cain, Steven M. The case status is "Open - Electronic filing" and the branch ID is 2. The party summary lists the following:

Party type	Party name
Plaintiff	Gauthier, Michael
Plaintiff	Gauthier, Stacy
Plaintiff	Gauthier Properties at Covered Bridge, LLC
Plaintiff	Gauthier Properties at Wildwood, LLC
Plaintiff	Gauthier Properties at Wildwood II, LLC
Defendant	Town of Cedarburg
Defendant	Cedarburg Town Board

Mike and Stacy Gauthier Case 2026CV000186

Defending these decisions in court will be paid through the Town of Cedarburg budget by Cedarburg residents.



Two unanimous decisions, reached after a multi-year public process applying state law, the Town Code, and the Comprehensive Plan, are now being challenged at taxpayer expense."

Kevin Cahill | Save Cedar Creek

The Town's Authority Was Clear and Documented

Under Wisconsin Statutes §§ 60.22, 60.61, and 60.62, and Chapter 320 of the Town of Cedarburg Code, towns have legal authority over zoning, land division, and pond construction within their borders.

The Town Board's official February 4th, 2026 meeting minutes record specific findings cited as grounds for denial of the pond permit, including:

> "A recreational pond used for boating purposes is not a permitted use in the A-1 Agricultural Zoning District. The proposed pond does not meet the standard of an accessory use in the A-1 Agricultural Zoning District. The applicant has not indicated that the pond would be used for any

agricultural-related purposes."

> "There is no existing single-family dwelling to support the proposed pond as an accessory use for a residence."

> "The applicant's substantial modification of their pond project after the public hearing and meeting deadline."

The Plan Commission's December 17th, 2025 unanimous denial recommendation was reported by CBS 58, which noted that members of the Commission expressed concerns about the pond and how it could lead to air or water pollution that would impact the area.

The Fish Farm Argument: Raised at the Final Meeting, Not in the Application

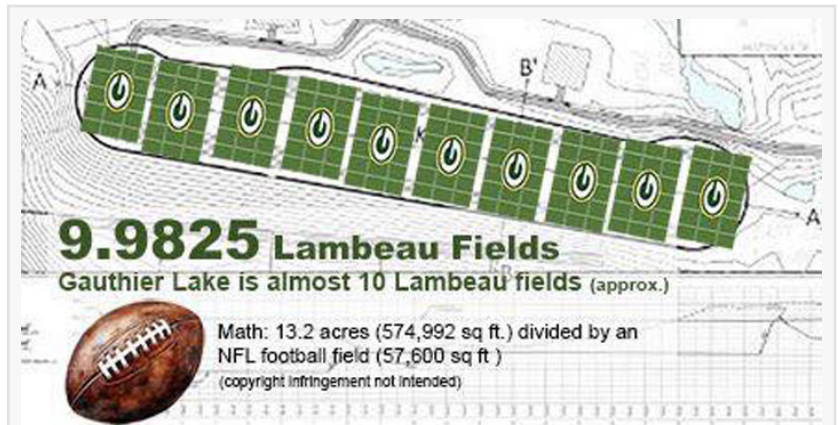
According to the Town's official February 4th, 2026 meeting minutes and the audio recording of that meeting, the Gauthiers' attorney at the time, Rick Donner, argued that the proposed pond "is licensed by DATCP as a fish farm as an agricultural use."

The meeting record captures Presiding Supervisor Thomas Esser's direct response: "the proposed use is recreational." When the matter was pressed further, Esser stated on the record: "I'm going to get a little frustrated here because the presented purpose of the pond is for water skiing."

Town Attorney Brad Hoeft addressed the fish farm claim directly during the meeting, as recorded in the official transcript:

"The fish pond permit that you provide to the town in the past, before you submitted your applications, is a type 2 permit that is for personal consumption and use. It is not an agricultural permit... So you raised the issue about the fish pond, but a fish permit, but that's not part of this application, and it is not agricultural permit."

The Town Planner's findings, included in the staff report, stated plainly: "The applicant has not indicated that the pond would be used for any agricultural-related purposes."



The Lake is Larger than 9 Lambeau Fields



Image Credit: GMToday.com

The Eleventh-Hour Engineering Switch

For most of the application process, the project was designed to draw water from Cedar Creek. On January 23, 2026, the Gauthiers' attorney sent a letter to the Town withdrawing the rezoning petition. The applicants then submitted revised engineering plans the week before the final Town Board meeting, proposing instead to fill and maintain the pond using a high-capacity well.

According to the February 4th, 2026 meeting minutes, Town Planner Amy Barrows reported that "staff has not had a chance to fully review the materials." Town Engineer Troy Hartjes told the Board he "did not have the chance to review the altered engineering documents received one week before this meeting." The minutes record that "detailed well and piping information has not been included in the updated pond plans."

The Automatic Approval Argument

In the same January 23th letter, the Gauthiers' attorney took the position that the Certified Survey Map was automatically approved under Wis. Stat. § 236.34(1m)(f), which requires action on a CSM within 90 days unless extended by agreement.

Town Attorney Hoeft produced 161 pages of communications between the Town and the Gauthiers' attorney documenting that the applicants had agreed to every public meeting date throughout the process. The official minutes record Hoeft providing copies of these communications to the Board, the Town Clerk, and the applicants' attorney at the meeting.

Drilling Began Within Days of the Town Board Denial

Within days of the Town Board's 5-0 vote, drilling equipment arrived on the Gauthier property and high-capacity well work commenced under a separate Wisconsin Department of Natural Resources approval, despite no Town permits having been issued for the pond itself. TMJ4 reported on the post-denial drilling on February 8th, 2026, in a story titled "Cedarburg neighbors still concerned despite town's rejection of 13-acre private pond proposal." The Milwaukee Journal Sentinel followed up in March 2026 with reporting on the continued drilling activity.

The Town's Position Has Strengthened Since the Denial

In the months following the February vote, the Town Board adopted Ordinance 2026-5, which limits man-made ponds in the Town to a maximum of five acres. The ordinance was supported by a Town staff inventory of 168 existing ponds in Cedarburg, which found that 97 percent of all ponds in the Town are smaller than five acres, with an average size of 0.95 acres.

The 5-acre threshold is grounded in documented land-use patterns across the Town, not in any single application.

What a Petition for Writ of Certiorari Means

A Petition for Writ of Certiorari is the standard mechanism under Wisconsin law for challenging a municipal land-use decision. It is a court appeal of an administrative decision, not a civil lawsuit seeking damages.

The court does not retry the case or hear new evidence. Review is limited to four questions: whether the Town Board kept within its jurisdiction, whether it acted according to law, whether its action was arbitrary or unreasonable, and whether the decision was supported by substantial evidence.

According to online research, these cases typically take 6 to 18 months to resolve. During that time, the Town of Cedarburg will incur legal defense costs paid through the Town budget.

[Save Cedar Creek's Position](#)

"The Town's Plan Commission and Town Board both reached unanimous decisions after a multi-year public process, applying Wisconsin's statutory framework, the Town Code, and the Comprehensive Plan," said Kevin Cahill, founder of Save Cedar Creek. "[Mike and Stacy Gauthier](#) have every legal right to seek court review. But the cost of that review now becomes a line item in the Town's legal defense budget, paid for by the same residents who attended public hearings, submitted comments, and asked their elected officials to protect Cedar Creek and the Town's rural character as outlined in the Town's plan."

About Save Cedar Creek

Save Cedar Creek is a community-led organization dedicated to protecting the natural resources, water quality, and rural integrity of the Cedar Creek watershed in the Town of Cedarburg, Wisconsin. The organization has documented the proposed Gauthier project since 2025 and has over 7M views on Facebook and Instagram through its advocacy campaign.

Sources:

- Ozaukee County Circuit Court Case No. 2026CV000186, filed April 29, 2026 (Wisconsin Circuit Court Access)
- Town of Cedarburg Board of Supervisors Meeting Minutes, February 4, 2026
- Town of Cedarburg Board of Supervisors Meeting audio recording and transcript, February 4, 2026
- Town of Cedarburg Plan Commission Meeting, December 17, 2025
- CBS 58 News, "Town of Cedarburg planning commission recommends denial for private pond plans," December 17, 2025
- TMJ4, "Cedarburg neighbors still concerned despite town's rejection of 13-acre private pond proposal," February 8, 2026

- Milwaukee Journal Sentinel reporting, March 2026
- Wisconsin Statutes §§ 60.22, 60.61, 60.62, 236.34(1m)(f)
- Town of Cedarburg Code, Chapter 320
- Town of Cedarburg Ordinance 2026-5

Citizens of Cedarburg

Save Cedar Creek

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